SENATE—*Wednesday, January 14, 1987*

(Legislative day of Tuesday, January 13, 1987)

The Senate met at 10 a.m. and was called to order by the Honorable DAVID PRYOR, a Senator from the State of Arkansas.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray.

Father in heaven, with gratitude we pray for all the faithful men and women serving on support staffs, without which the Senate could not function. We thank You for those who maintain buildings and grounds, for the Capitol Police, and all involved in security. We thank You for those who work in the subway, especially Bill Eschinger, as he goes to surgery this morning. We thank You for the elevator operators and the food service people—for those who serve in this Chamber, in the cloakrooms, the lobby, the reception room, and corridors. We thank You for the pages. We thank You for those who serve in the offices of the Senators—for administrative assistants, legislative aides, secretaries, clerks, receptionists. We thank You for the directors of committee staffs and their members. We thank You, Father, for the official reporters and all who produce the CONGRESSIONAL RECORD.

May all these, Thy servants, realize how greatly they are appreciated and loved, and may Thy blessings abide upon them all. We pray in the name of Him who was the servant of servants. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. STENNIS].

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, January 14, 1987.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable DAVID PRYOR, a Senator from the State of Arkansas, to perform the duties of the Chair.

JOHN C. STENNIS,
President pro tempore.

Mr. PRYOR thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. Under the previous order, the majority leader is now recognized.

Mr. BYRD. Mr. President, I thank the Chair.

WATER QUALITY ACT OF 1987

Mr. BYRD. Mr. President, I am pleased to support, together with 74 of my colleagues, H.R. 1, the Water Quality Act of 1987. H.R. 1, and its companion bill, S. 1, are identical to the legislation that was unanimously approved by both the House and the Senate at the end of the 99th Congress. This legislation, which represents 5 years of bipartisan effort in Congress, has broad support among environmental groups, industry, State and local governments, and the people.

This bill continues a national commitment to clean up our lakes and waterways that dates back to the first water quality legislation that passed Congress in 1948. We all have a vested interest in clean water; there is simply no resource more vital to our individual and collective survival.

The administration says that we cannot afford clean water. The President says that this bill will "bust the budget." This legislation authorizes $18 billion to be spent over 9 years, with annual appropriations limited to a maximum of $2.4 billion. To put this in perspective, the President proposes in his fiscal 1988 budget to spend some $13 billion on foreign aid in 1 year while this bill would spend $18 billion for clean water over 9 years. In fact, the administration intends to increase spending for international affairs programs by $1.3 billion this year and $1 billion in fiscal year 1988. Now, that's budget busting!

Mr. President, the Environmental Protection Agency has estimated that the cost for all communities to comply with the water quality standards under existing law by the year 2000 will be $109 billion. This bill will help move State and local governments away from total reliance on Federal grants for the construction of sewage treatment facilities and toward a self-financing system. S. 1 includes $8.4 billion to capitalize State pollution control revolving funds which will allow States to loan needed funds to communities for future construction.

It is important to remember that this legislation will mean job opportunities to many of our communities. The Environmental Protection Agency has estimated that every $1 billion in construction grant expenditures creates 33,150 workyears in the building trades, manufacturing, transportation, and support services sectors of our economy. This would translate into at least 100,000 jobs per construction season.

We cannot delay any longer. States will not be able to plan water quality control efforts without a new authorization bill. Communities that face a July 1, 1988, deadline for the construction of secondary treatment facilities will lose the 1987 construction season unless Congress acts quickly. In my State of West Virginia, for example, this could have the effect of denying local governments up to $151 million in construction grants necessary to begin the work needed to meet the July 1, 1988, compliance deadline. Enforcement action could be taken against those towns and cities failing to meet the requirement, which, in turn, could result in fines and additional costs that local governments cannot afford.

In short, we cannot afford to fail to enact the clean water bill. It is a job bill, a health bill, and a commerce bill. It is an investment the people of this Nation want their Government to make.

I urge my colleagues to support H.R. 1, the Water Quality Act of 1987.

THE JOURNAL

Mr. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

CLEAN WATER LEGISLATION

Mr. BYRD. Mr. President, the distinguished minority leader is back today, having been necessarily absent Monday and Tuesday, and the reasons were explained, may I say, during his absence. It was unavoidable, and I have recognized that the unusual and extenuating circumstances that forced absence upon the distinguished Republican leader has made it necessary for the Senate to delay acting on the clean water bill on Monday and Tuesday. Those were circumstances that could not be helped.

I will be talking with the distinguished Republican leader a little

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

later this morning, as we have talked on the phone on Monday and maintained contact through the distinguished assistant Republican leader, Mr. SIMPSON, on yesterday.

I hope we will be able to arrive at some agreed approach whereby the Senate can act on the clean water bill expeditiously. We may not be able to complete action on it today, or tomorrow or even Friday. But if we can do so, as soon as possible, I think we need to do so.

I want to accommodate the distinguished Republican leader if there are problems which he and I can discuss with respect to the timing of the legislation. I do not seek any confrontation with the White House. I do not want any confrontation with the White House. I want to cooperate with the White House. Those conversations between the two leaders will be continuing.

May I say to the distinguished Republican leader that I am happy to see him back this morning. I am sorry about the circumstances that could not be avoided as to yesterday which necessitated his absence.

As to the inauguration of his Governor on Monday, I hope that was a happy event. We have those occasions periodically in West Virginia and I try to get to them. Usually, there, the snow is falling heavily and the ice is on the ground and the temperatures are down near zero or below. But the inaugurations go forward regardless of the weather.

Mr. President, I reserve the balance of my time, if I have any remaining.

RECOGNITION OF THE MINORITY LEADER

The ACTING PRESIDENT pro tempore. Under the previous order, the minority leader is recognized.

Mr. DOLE. Mr. President, I thank the Chair.

Mr. President, I first want to thank the distinguished majority leader. As he indicated, on Monday we did have an inaugural in our State. It was a happy day. We do not elect too many Republican Governors in Kansas, so to have the second one in 20 years was sort of exciting to many of us.

Yesterday, by contrast, was just the opposite. It was the funeral of one of my best friends, McDill Huck Boyd, who was our national committeeman for a few years, one of the real giants in not just Kansas politics but an outstanding Kansan. I appreciate the accommodation made by the majority leader in making it possible for me to attend that service in Phillipsburg, KS, yesterday afternoon.

CLEAN WATER LEGISLATION

Mr. DOLE. Mr. President, we will have a discussion and I do hope that we can work out some accommodation on the water bill. I think, to be very candid about it, the President would rather not have to look at that until after the State of the Union Message. Maybe that is not possible, because the House did act very quickly. The vote was overwhelming, with only eight negative votes; last year there were zero.

I assume, as the distinguished majority leader has indicated, with 74 cosponsors, the result here is probably not too hard to predict. But we do have an outstanding substitute which we hope to offer. I have not been back long enough to pick up all the rumors, but there are all kinds of amendments floating around, at least I am advised, that could be offered. So I think, before indicating what they might be, I would first want to discuss all the potential problems and maybe some way to resolve them with the majority leader.

BICENTENNIAL MINUTES

Mr. DOLE. Mr. President, on the opening day of the Senate, I indicated that I would be making brief statements on a daily basis called Bicentennial Minutes, sort of looking back at things that have happened over the years as we celebrate the 100th Congress. Today, I would like to talk about something that occurred on January 14, 1868.

SENATE REJECTS PRESIDENT'S REMOVAL OF CABINET OFFICER—JANUARY 14, 1868

Mr. President, early in 1867, Congress passed the Tenure of Office Act over President Andrew Johnson's veto. Drawing on the Senate's constitutional right to consent to Cabinet nominations, this act gave the Senate the authority to block the removal of Cabinet officers. That provision was specifically designed to keep Secretary of War Edwin Stanton in office. Appointed by President Lincoln, Stanton had fallen into disfavor with President Johnson because of his sympathy with the Reconstruction aims of congressional Republicans. The so-called radical Republicans in Congress sought to impose stringent requirements on former Confederate States seeking reentry into the Union. As Secretary of War, Stanton controlled the Army, the only instrument with sufficient power to enforce Congress' Reconstruction policies.

President Johnson believed that the Supreme Court, given the opportunity, would strike down the offensive Tenure of Office Act. Accordingly, he dismissed Stanton in July 1867 while the Senate was out of session, and replaced him, by recess appointment, with the widely popular Gen. Ulysses Grant. When the Senate reconvened in December 1867, the President reported his suspension of Stanton and asked its consent. Johnson thought he had Grant's pledge to hold onto the office, regardless of the Senate's action, until the Court ruled on the act's constitutionality.

On January 13, 1868, the Senate, by a vote of 35-6, reinstated Stanton as Secretary of War. On the 14th, 119 years ago today, General Grant turned over the key to the War Department to Stanton. Not wishing to defy the Senate, Grant refused to conduct the fight for his post that would place the matter before the Supreme Court. By yielding to Stanton, he deprived a bitterly angry President of the opportunity to replace him. This accelerated the chain of events that, within several months, led to Johnson's Senate impeachment trial.

PHONY SANDINISTA CONSTITUTION

NEW SANDINISTA CONSTITUTION

Mr. DOLE. Mr. President, there was an event that occurred last week that I had not, because of my absence, had an opportunity to comment on. I would just briefly call that to the attention of my colleagues and anybody else who may have an interest. It is something that I think we look upon, as people reflect on it, as sort of an infamous event: the issuance of a new constitution by the Sandinista regime in Nicaragua.

Every time I am convinced the Sandinistas have hit a new high in chutzpah—and I think back to occasions like Daniel Ortega's appearance at the U.N. last year, when he lectured us on aggression—just when I think they have hit their high point, that they cannot do anything more outrageous, they prove me wrong.

And Daniel Ortega and his crowd have done it again. They have issued a new constitution, claiming that this piece of paper will protect the civil liberties of the Nicaraguan people—civil liberties they have spent the past several years trampling in every way imaginable.

CONSTITUTION FULL OF LIES

They issue a new constitution, guaranteeing freedom from arbitrary detention—but they continue to imprison thousands, sentenced by revolutionary courts, for the crime of opposing Sandinista oppression.

They issue a new constitution, guaranteeing freedom of expression—but La Prensa is still shut down.

They issue a new constitution, guaranteeing freedom of religion—but Bishop Vega is still barred from the country, and the Catholic Church radio is still silent.

They issue a new constitution extolling political pluralism—but within hours, Sandinista goons summon opposition leaders for interrogation, bar their political meetings, and confiscate their political banners.

And—to put the official, and final touch, on this—the ink on this new constitution is not even dry yet, when Daniel Ortega puts his pen to an executive order, suspending all these rights that this hallowed piece of paper just put into effect hours before.

TRAGEDY OF NICARAGUA CONTINUES

If the situation in Nicaragua was not so tragic—if people were not dying, deprived and rotting in Sandinista prisons—this whole affair would be a joke.

But it is not a joke. It is a very real, very tragic, and very serious situation. The freedom of an entire nation is at stake; the peace of Central America is at stake; the security of the United States, ultimately, could well be at stake.

That is the reality in Nicaragua—a much more urgent and important reality than some of the sideshow issues that have preoccupied us in recent months.

Mr. President, the new Sandinista constitution is a sham. It is not going to fool anyone. It does not change the situation inside Nicaragua, except maybe for the worse; it does not diminish the urgent need for us to keep up the pressure on Managua. It just becomes part of a list of other policies and actions which stand as a living, growing monument to Sandinista treachery and deceit.

Mr. President, I reserve the balance of my time.

TRIBUTE TO THE LIFE OF McDILL "HUCK" BOYD

Mr. DOLE. Mr. President, last Friday evening the people of Kansas lost a good friend, McDill Boyd. His friends called him "Huck," and I am one who enjoyed the rare privilege and great honor of knowing him and learning from him.

Without Huck Boyd, I might not be standing here today as a Member of the U.S. Senate. Huck helped in my first campaign back in 1959 when I ran for Congress and also managed my next campaign in 1962. He was with me every step of the way then and every day since. Huck Boyd was my mentor in politics, as well as in many other aspects of my life.

Huck was the publisher of the Phillips County Review, a weekly publication in north-central Kansas that shared the titbits of news and views important to a small, rural community. He authored a series of articles on the shortage of doctors in rural Kansas, which led to the formation of the Family Practice Department at the University of Kansas Medical School. He led the effort to keep railroad services in northwestern Kansas, too. His work as a writer, editor, and publisher earned him many honors, including the prestigious William Allen White Foundation Award for Journalistic Merit.

To Huck Boyd, what mattered to rural America and to small towns like Phillipsburg was as important, if not more important than, the great political battles of Washington. And Huck certainly knew those.

Huck managed Presidential campaigns in our State for Dwight Eisenhower and Richard Nixon. He served as the Republican National Committeeman from our State for 21 years. And in 1968, 1972, and again in 1976 Huck managed the press operations at our National Conventions.

Huck himself twice sought the governorship of Kansas, and though he was unsuccessful in both 1960 and 1964 he did not give up. He stayed active in our party and contributed much to its growth and future victories.

But for all the autographed pictures on his walls, and for all the plaques thanking him for countless good deeds, and for all the other honors bestowed on him, the real greatness and success of Huck Boyd was simply in the kind of person he was. To see him walking down the street, you would never guess that he counseled Presidents and Governors and Senators. But you could see that he was a devoted husband and a loving father.

He was a simple, decent man who had a blind faith in his fellow human beings and fellow men and women. He was never too important and was never too busy to offer a kind word to anyone, or to lend a helping hand or to do anything else that may ever have been asked of him.

Huck Boyd passed away last Friday evening after a battle with cancer. He was 79 years young, and up to his final days was still going as strong as ever, assisting in the transition efforts of a new Republican Governor. We will forever remember his great contributions to his family and his profession, his community, and our State, and to our party and our country. His wife Marie, his daughters Pat and Marsha, and other members of the family are in my thoughts and prayers, and the people of Kansas join me, I am certain in this tribute.

Huck Boyd did with astuteness, compassion, and class what the rest of us strive to do—serve the people. He leaves a large pair of shoes to fill; they may never be filled. And many of us will walk in his shadow for years to come.

Mr. BYRD. Mr. President, do I have any time remaining?

The ACTING PRESIDENT pro tempore. The majority leader.

CLEAN WATER LEGISLATION

Mr. BYRD. Mr. President, may I just comment on the distinguished Republican leader's remarks with respect to the clean water measure.

I want to do whatever I can to accommodate the President. I am not seeking to embarrass the President. As to the timing with respect to the passage of the measure and again with respect to the President's State of the Union Message, if there is some problem there, if I can just find out what it is, perhaps we can go from there and accommodate the President.

I do not seek to embarrass him. That is not the idea. I want to get this bill passed. I also would like to avoid having nongermane amendments, called up. So perhaps we could work out some agreement to preclude all amendments other than the amendment by the Republican leader. It may be impossible to get the agreement. But I want to assure the Republican leader that it is my desire to cooperate and to accommodate. But I think we have to pass this legislation. All Senators were on notice that this legislation would be before the Senate early in January.

Committees are busily meeting and are proceeding with their responsibilities. We are almost a month ahead of what we would be otherwise if we had followed the normal course of not transacting any business prior to the President's State of the Union Message. The Armed Services Committee has been meeting, the Budget Committee has had meetings, and the Foreign Relations Committee is meeting with respect to the treaties and foreign policy. The Banking and Currency Committee has been meeting. Several other committees have met, are organizing or have already organized, and are conducting hearings on legislation which will be brought out of the committees.

So we are making good progress. I hope we can expedite the business of the Nation, not have Government shut down, get out at a reasonable time daily, when possible, and at the same time be able to adjourn sine die by a reasonable date in the fall.

Mr. DOLE. Will the majority leader yield?

Mr. BYRD. Yes. I am happy to yield.

Mr. DOLE. I just wish to confirm what the majority leader stated. I think he has gotten us off to an excellent start. We are ahead of schedule. There are things happening that normally have not been the case. I congratulate the majority leader.

Mr. BYRD. Mr. President, I thank the distinguished Republican leader.

I yield the floor.

RECOGNITION OF SENATOR PROXMIRE

The ACTING PRESIDENT pro tempore. Under the previous order the distinguished Senator from Wisconsin, [Mr. PROXMIRE] is recognized for not to exceed 5 minutes.

STOP SELLING ARMS EXCEPT TO U.S. ALLIES

Mr. PROXMIRE. Mr. President, why has there been no visible challenge to the policy this country has been pursuing for many years of selling military weapons to almost any country that has the price? Is not that the real shame of the Iran-Nicaragua arms scandal? Oh, sure, this is not an exclusive Reagan administration policy. It has been a bipartisan policy of this country for years. And it is a shame, a terrible shame.

Consider: What is the purpose of military weapons? Yes, indeed. We always claim these weapons of death are sold strictly for defensive purposes. We describe them as deterrents, and as guardians of freedom. But let us face it. They have one mission. They can kill. That and that alone is why we can sell them and the purchasing country will buy them. How can we do this? How can this great peace-loving country sell military weapons of death? Now let us be realistic about this. Of course, we sell military weapons to our North Atlantic Treaty allies. And we should. We should also sell military weapons to other allies like Israel and Japan. How do we justify these sales? We justify them because these sales help provide for our own national security. We provide them for the defense of our allies and ultimately for the defense of our own country. These sales of military weapons we can support.

But there is no way we can support the sale of weapons to nations that are not our military allies. None. Just think of it. In 1984 and 1985—the latest years for which we have figures—this country sold more than $27 million worth of arms to the biggest Communist country in the world—China. At the same time we sold more than $1.5 billion worth of arms to Taiwan whose prime military opponent is China. Furthermore some of the arms we sold to China are tailor-made for an attack on Taiwan. Because of our sales thousands who would otherwise live may die. Sure we make a buck or two. But our hands are bloody.

We have sold arms to many other determined adversaries or potential adversaries: In the last 2 years, $35 million in arms to India; $500 million worth to Pakistan; $18 million in arms to Argentina; $55 million in military weapons to Brazil. There is only the smallest of exceptions to this gruesome and evil policy. The Congress has forbidden by law the sale of arms by this country to terrorist countries. In the law we list five terrorist nations to which we will no longer sell arms. One of them is Iran. But now we find that for the past 2 years while the law proscribing such sales was fully in effect the United States has been selling arms to Iran. What is so wrong with that? First, it is flatly against the law. Second, Iran is our sworn enemy. The aytollah, the fanatic Iran dictator, has called America the great Satan. Third, Iran is an active belligerent now. So we know those arms will be used to kill the Iraquis. Fourth, we are providing military intelligence to the enemy of Iran: Iraq. So we send military assistance to both sides. Fifth, our Secretary of State has been speaking in nations around the world pleading with them to embargo all sales of arms to Iran. Sixth, our announced policy has been to stop the war between these two countries as promptly as possible. Meanwhile we are egging on both sides to continue fighting by supplying both sides with military assistance. Our country will be directly responsible for the death of tens of thousands in Iraq and Iran. What monumental hypocrisy! What a cruel policy!

Mr. President, this sale of military weapons, billions of dollars of military weapons, throughout the world is worse than stupid, contradictory, hypocritical—it represents a savage attack on everything this country cherishes. All of us as Americans are proud of our freedom, our democracy, and our equality of opportunity. But our prime value is beyond any of these treasured objectives. So what is our prime value? Our prime value is human life. To us every person—black, white, American, Iranian, Chinese or Indian—is a child of God. Every life is of infinite worth. When American TOW missiles are used by Iranians to kill Iraquis that death is as evil in the eyes of God as if we conspire to kill our own brother. The sale of arms to a belligerent who is not our military ally is the epitomy of evil.

Today like every day we started this session of the Senate by bowing our heads in prayer and reverence for God. And what is the prime lesson of our Judeo-Christian faith? It is above all reverence for human life. And yet for years this body has supported or condoned this supremely evil policy of indiscriminate arms sales that can only destroy human life.

Mr. President, what should we expect from the investigation of the Iran-Nicaraguan affair by the Congress? There may or may not be criminal action taken against those who have violated our laws. But how will this tragic episode enable us to prevent this vicious disregard for this Nation's No. 1 value—the sanctity of human life—in the future? This Congress should carefully consider a policy of outlawing the sale or transfer of military weapons to any nation that is not an ally of the United States.

Mr. President, a few days before the Iran arms sale scandal broke, the New York district attorney sought an indictment of resident Americans for the sale of arms to Iran. He publicly attacked these men for one of the most vicious crimes imaginable. He called them "Merchants of Death." Dwell on that phrase for a minute, Mr. President—"Merchants of Death." And then ask yourself. Is not this exactly, and precisely what our own United States of America, the country all of us love, has become in selling arms everywhere to everyone? This Congress can and should end this criminal policy, and now.

PROXMIRE PRESENTS PRESIDENTIAL PREREQUISITE

Mr. PROXMIRE. Mr. President, I might note that the distinguished Presiding Officer, Senator PRYOR, and the Senator who is waiting to speak, Senator PRESSLER, both have a peculiar distinction which I share with them; that is, that their names start with PR. I have always thought it would be a great thing for our country if at long last we had a President of the United States whose name started with PR. Think of that. President PRYOR, President PRESSLER. I will not go on. But I think that is something we should seriously consider. That is a real qualification.

Mr. President, I yield the floor.

RECOGNITION OF SENATOR PRESSLER

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from South Dakota, Mr. PRESSLER, is recognized for not to exceed 5 minutes.

Mr. PRESSLER. Mr. President, I will not comment on that.

HUMAN RIGHTS IN CZECHOSLOVAKIA: CHARTER 77 FIGHTS ON

Mr. PRESSLER. Mr. President, human rights in Czechoslovakia and Charter 77 fight on.

The Iron Curtain has not lifted, but the flame of human concern still burns brightly in Eastern Europe. Bodies are imprisoned, mutilated, or killed, and lips are sealed, but spirits still soar. The thirst for justice cannot be quenched just yet, nor can the hunger for freedom, and hope remain for a better time.

In my judgment Czechoslovakia is a most unique country in the sense that it projects a spirit of freedom but KGB activity and the repression of thought in Czechoslovakia are greater, perhaps, than even in the Soviet Union. That is hard to believe because Czechoslovakia portrays itself as being more of a free society, with its tennis players and with its variety of cultural exchanges. But the fact of the matter is that the KGB controls the Czechoslovakian Secret Service more so than any other Eastern European country.

We Americans are so fortunate to live in a free land dedicated to "liberty and justice for all." Yet, we must not forget our brave friends who are not so fortunate, particularly those who live under the tyranny of communism. Because they cannot, we must work to lift their chains, to unseal their lips, and ease their pain.

How can we do that? Anniversaries remind us of their plight, and offer us avenues to pursue. Last fall we celebrated here in Congress several anniversaries important to the human rights struggle in Eastern Europe. Most notable were the events commemorating the 30th anniversary of the Hungarian uprising, the 10th anniversary of the implementation of the Helsinki accords and the founding of the Helsinki Watch Groups. These anniversaries were celebrated on both sides of the Atlantic, here in our own Congress and among dissident groups in various East European states united for the first time in a common cause.

This month we have another important anniversary to celebrate: The 10th anniversary of the founding of Charter 77 in Czechoslovakia, an initiative dedicated to enhancing and preserving human rights and responsibilities.

Why is Charter 77 so important to us in the West, particularly to those of us in the United States? In many ways, Charter 77 is so very valuable because of what it is not. It is not, as I have said, a formal opposition group. If it were, it probably would not exist. As it is, it leads a tenuous existence, its membership harassed, its leadership forced to rotate continuously. Yet, at the minimum, it is an extremely important manifestation of freedom. As a movement, Charter 77 works for certain democratic values, and human rights concerns are strictly promoted. However, the Charter does not advocate eliminating the present government, and they do not ask that General Secretary Husak resign. They view the events of 1968 as an unsuccessful reform experiment; as such, disgruntled Communists are Charter members, as are religious and human rights activists, environmentalists, and liberal internationalists. The fact that the Charter is not a formal opposition group probably guarantees its right to exist as a movement helping to keep the light of freedom alive in Eastern Europe.

I am not an expert on Czechoslovakia; indeed, I made my first visit to Czechoslovakia this past June as chairman of the European Affairs Subcommittee of the Committee on Foreign Relations. However, I came away extremely impressed with the Charter movement, and I am determined to do what little I can to promote its effectiveness and longevity.

I am convinced that the Charter can use all the support it can get. I was shocked recently to read a December 14, 1986, New York Times article by Kurt Vonnegut, Jr., and a newsstory by Michael T. Kaufman dated which portrayed a January 21, 1986, irrational crackdown by the government on the society of Czechoslovak jazz musicians. The arrest of eight musicians, whose only "crime" was a musical affiliation with the West, hardly bodes well for the premier human rights movement in Czechoslovakia.

I had a firsthand experience with the authoritarian nature of the Czechoslovak Communist state, and my respect for those who oppose it grew immeasurably. My staff and I personally witnessed an example of repression, in an incident that may signal the Czechoslovak Government's intention to step up controls to minimize dissident contacts with the West. In an impromptu fashion, I decided to attend a dinner meeting between a member of my staff, American Embassy political officers, and spokesmen of the Charter 77 movement. Upon arriving with an American Embassy official, we discovered that several Charter spokesmen had been prevented from leaving their homes to attend this dinner. I decided to attempt to visit them at their home, where one of my staff was already meeting with them.

At the vestibule to their apartment, we were stopped by several plainclothes policemen, who prevented me from entering. They stated that unless I was able to present my passport for identification, I could not enter. My passport was procured and we returned to the apartment building. We were then met by approximately 10 plainclothes police, who insisted that I should not enter. When asked why, they stated that the Minister of Interior forbade my entrance, citing this as an inappropriate place for a visitor to come. At that point, after some discussion, the Embassy political officer accompanying me offered to go upstairs and bring the Charter spokesmen down. This was done, but the Charter spokesmen were prevented from leaving the building with me so we had no discussion.

Embassy officials told our party that this level of interference was unusual, and that it might signal a tightening up of Czechoslovak policy toward contact with dissidents. We concluded that it was important to make the attempt, although my visit was prevented. Apparently, only United States and British parliamentarians regularly attempt to meet with dissidents, with other Western visitors eschewing such meetings.

It is in this light that I have watched with concern the 10th anniversary celebrations of the Charter's founding this January. A press conference was convened by the Charter, but several Charter 77 spokesmen and signatories were either detained or prevented from attending. The press conference was scheduled to be held in a local Prague restaurant, but it was closed by security police, who would not permit anyone to enter.

However, one of the retiring Charter spokesmen, Martin Palous, was able to arrange a "substitute" press conference in his apartment, which was attended by several foreign correspondents. Even then security policy caused a power blackout to the apartment within an hour; the meeting concluded by candlelight. Security police apparently also detained that day former Charter 77 spokeswoman Anna Marvanova, who suffers from an incurable disease of her spinal cord and who is unable to move about on her own, and Charter 77 signatory Pavla Nemcova.

During this anniversary season for Charter 77, we should warmly congratulate the three new spokesmen who will be speaking for Charter 77 in 1987. Their strength and leadership will be of great importance to the Charter and to human, religious and political rights activists throughout the Communist bloc. They are Jan Litomisky, Libuse Silhanova, and Josef Vohrysek. Their biographies and addresses are detailed at the conclusion of my remarks. I hope that all of you will give them the support, encouragement, and hope that they need to carry this great responsibility.

I expect to speak about Charter 77 and its activities throughout the year, in recognition of its 10th anniversary, and I urge my colleagues not to forget those who work for freedom in Eastern Europe and the Soviet Union. It is only by remembering what others must endure that we can fully appreciate our own privileges and freedoms.

Mr. President, I ask unanimous consent that a document entitled "New Charter 77 Spokespersons as of January 6, 1987," be printed in the RECORD at this point.

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

NEW CHARTER 77 SPOKESPERSONS AS OF JANUARY 6, 1987

Litomisky, Jan, born August 19, 1943 in Prague, evangelical family, studied at the Agricultural College; since 1965 worked as agronomist; joined the catholic people's party in Ceske Budejovice; left the party in 1969 because of disagreement with its policies, after the Soviet invasion of Czechoslovakia. In 1978 became a member of VONS and in February, 1981 was detained for this activity; in the fall of the same year, Litomisky was sentenced to 3 years imprisonment and 2 years of "protective supervision". Served his sentence in Plzen-Bory prison, where he worked in a department producing custom jewelry. After his release from prison, subjected to the provision of the "protective supervision" until February, 1986. Worked as a forestry worker. Litomisky is an active member of the Czech Brethren Evangelical Church. His address is: Doudova ulice cislo 6, Praha 4.

Silhanova, Libuse, born April 10, 1929 in Vrdy, distr. Caslav into a family of a country physician. Since 1945 active in a youth movement, in the area of culture. Since 1949 worked as a journalist; married in 1951; later studied at the Charles University in Prague at the philosophical faculty; graduated in 1957; mother of three children; worked also as a teacher at a basic school, later in high school; later as an editor in publishing house "Svoboda". Since 1967 active as a scientific worker in the Institute of Social and Political Science. Her studies concerning the socializaion of youth, were published in professional magazines in Czechoslovakia and abroad. After the closing of the Institute and explusion from the communist party in 1970, Silhanova worked manually. She became ill and retired on disability pension. After she signed Charter 77, the authorities withdrew her disability pension. Retired since 1984. Address: Jeseniova ulice c.105, Praha 3.

Vohryzek, Josef, born May 17, 1926 in Prague. Studied at a gymnasium before the war; in 1940 his parents sent him to Sweden, to save him from deportation of Jews. Later he applied at the Czechoslovak government in Exile (in London) to serve in the air-force and was called to join the airforce in England. However, because of poor eyesight, he was not permitted to join. Returned to Sweden and in 1944 joined the communist party. After his return to Czechoslovakia studied at the Charles University. Later worked as an editor for the Czechoslovak Academy of Sciences and published many articles and literary thesis in magazine "Kveten" (May). Joined the Czechoslovak Communist Party, however, later was expelled for his criticism. In 1967 became a member of the section of translators of the Czechoslovak Independent Writers Association. Since 1970 worked manually. Translated about 30 works from Swedish. Address: Pocernicka ulice c.40, Praha 10.

RECOGNITION OF SENATOR BAUCUS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Montana [Mr. BAUCUS] is recognized for not to exceed 5 minutes.

AGRICULTURAL TRADE ENHANCEMENT ACT

Mr. BAUCUS. Mr. President, we do not need to look very far into our rural areas to know that our farmers desperately need help.

Our farmers need help in many areas, but what they need most right now is an aggressive program that will boost America's sagging agricultural exports.

That is the goal of the Agricultural Trade Enhancement Act of 1987 which I am introducing today.

Back in 1980, the economic health of agriculture looked pretty encouraging. Farms were in strong financial condition. Government support for agriculture amounted to only $4 billion annually—a drop in the bucket by today's standards. The future looked bright and the Government was advising farmers to plant more crops to feed a hungry world.

At the same time, we were exporting 44 billion dollars' worth of agricultural products. More than one-third of total farm income came from export sales. This strong trade performance buoyed the entire economy and pushed up prices paid to farmers.

By 1986, however, the picture had turned bleak. Agricultural debt had risen to more than $200 billion. The rates of farm foreclosures and rural bank failures were at the highest level since the Great Depression. Government expenditures to support agriculture had reached a record $26 billion. The Government was spending more to store agricultural surpluses than the entire farm program cost in 1980.

In that same year—in 1986—the United States exported only about 25 billion dollars' worth of agricultural products. That is about one-half the exports in 1980. Worse yet, the value of agricultural imports was coming very close to the value of our agricultural exports.

Why? Because more and more of America's food supply was being grown in foreign fields.

It is no coincidence that our farmers faced more financial hardships as we lost our export markets. Nor is it a coincidence that farm program costs went up by about $20 billion while the value of exports dropped by the same figure.

Plain and simple, the farm crisis is a trade crisis. The United States sells more than half of its yearly harvest of most major crops to foreign customers. The American farmers' largest markets are overseas.

Today, with the support of my colleagues, Senators ZORINSKY, BOREN, HEFLIN, BURDICK, and EXON, I am introducing a comprehensive package to remedy the agricultural trade problems that we face.

Our bill includes five major sections.

The first strengthens the sanctity of contracts assurance that we provide to our foreign customers. We want to assure our customers that they can depend on us to honor our commitments.

The second part of our bill expands the Export Enhancement Program. It grants EEP benefits to all foreign customers—especially our best customers. A program like this is essential to make our exports competitive with those from countries where farmers are heavily subsidized.

Right now the EEP is targeted at some of the worst U.S. customers. This focus has hurt the overall effectiveness of the program.

Still, there have been bright spots. In the 1985-86 marketing year, we exported just under half a million metric tons of barley. This year, largely because of the EEP, our farmers are likely to sell more than 3 million metric tons overseas.

Bright spots like this can be the rule instead of the exception. But the EEP must be used more widely and given to customers who have a record of wanting to increase purchases from the United States.

In the third section of our bill, we are urging the administration to make full use of current programs, like blended credit, guaranteed credit, the EEP, and food aid. We are also requiring the USDA and AID to report to Congress on the potential for using these programs to increase export sales.

At a time when agricultural exports are desperately in need of support, the administration is suggesting cuts in these programs. That is extremely ill-advised. We should be aggressively using these successful programs.

In the 1970's, agriculture was the bright spot in our trade picture. Now our agricultural trade surplus has shrunk to the lowest level in 20 years.

But we are not doomed to become an economy in decline. U.S. agriculture does not need to follow the path of the steel and textile industry. If we are willing to aggressively compete in the world economy, we can once again be the breadbasket for the world.

Now more than ever, it is time to compete, not retreat. This legislation is an essential step in that direction.

I ask unanimous consent that the full 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. 310

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 "Agricultural Export Enhancement Act of 1987".

SEC. 2. EXPORT CONTROLS.

Section 6(m) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(m)) is amended—

(1) by inserting "(A) except in the case of exports of agricultural commodities described in clause (B)," after "certified to the Congress";

(2) by redesignating clauses (A), (B), and (C) as subclauses (i), (ii), and (iii), respectively; and

(3) by inserting before the period at the end thereof the following: "; or (B) in the case of exports of agricultural commodities, including fats and oils or animal hides or skins, that—

"(i) the controls are imported in connection with an emergency declared under section 202 of the International Emergency Economic Powers Act; or

"(ii) the United States has terminated diplomatic relations with the foreign country or countries to which exports are to be controlled".

SEC. 3. AGRICULTURAL EXPORT ENHANCEMENT PROGRAM.

(a) IN GENERAL.—Section 1127 of the Food Security Act of 1985 (7 U.S.C. 1736v) is amended to read as follows:

"SEC. 1127. AGRICULTURAL EXPORT ENHANCEMENT PROGRAM.

"(a) DEFINITIONS.—In this section:

"(1) BASE PERIOD.—The term 'base period' means the most recent 12-month period ending August 15th.

"(2) BONUS.—The term 'bonus' means agricultural commodities and the products thereof acquired by the Commodity Credit Corporation that are provided under this section to promote the export of a targeted commodity to a targeted country.

"(3) BONUS PERIOD.—The term 'bonus period' means the period during which a targeted country receives a bonus, as determined in accordance with subsection (f).

"(4) SECRETARY.—The term 'Secretary' means the Secretary of Agriculture.

"(5) TARGETED COMMODITY.—The term 'targeted commodity' includes—

"(A) wheat, feed grains, upland cotton, rice, soybeans, corn, sorghum, and dairy products produced in the United States;

"(B) any other agricultural commodity produced in the United States that is determined by the Secretary to be in surplus supply and that may be purchased with funds available under section 32 of the Act entitled 'An Act to amend the Agricultural Adjustment Act, and for other purposes', approved August 24, 1935 (7 U.S.C. 612c); and

"(C) products of the commodities and products described in subparagraphs (A) and (B) that are processed in the United States.

"(6) TARGETED COUNTRY.—The term "targeted country" means a country that is eligible to receive a bonus under sections (c) and (d).

"(7) UNITED STATES MARKET SHARE.—The term 'United States market share' means the ratio of—

"(A) the quantity of a targeted commodity imported by a country from the United States; to

"(B) the quantity of a targeted commodity imported by the country from all foreign countries.

"(b) ESTABLISHMENT OF PROGRAM.—Notwithstanding any other provision of law, the Secretary shall formulate and carry out a program under which agricultural commodities and the products thereof acquired by the Commodity Credit Corporation are provided to United States exporters, users, and processors and foreign purchasers at no cost to encourage the export of targeted commodities to targeted countries.

"(c) DETERMINATION OF TARGET COUNTRIES.—

"(1) LIST.—Not later than September 1 of each year, for each targeted commodity, the Secretary shall announce a list of the foreign countries that have shown the largest increase in the United States market share of the commodity, in order of the highest to lowest market share, by comparing—

"(A) the average United States market share of the commodity of each country during the base period; and

"(B) the average United States market share of the commodity of the country during the 36-month period ending the preceding August 15th.

"(2) ALLOCATION OF TARGETED COMMODITIES.—The Secretary shall allocate the targeted commodities in the from of bonuses to the maximum possible number of countries on the list required under paragraph (1), in order of the highest to lowest market share, until the total quantity is allocated, preference to be given to those countries ranked highest on the list.

"(3) TRANSITIONAL BONUS.—Notwithstanding paragraphs (1) and (2) of subsection (d), the secretary may provide a bonus to a country that is not targeted to receive a bonus under paragraph (2) if the Secretary determines that the bonus is necessary—

"(A) to open a major new market for a targeted commodity;

"(B) to counter an unfair trade practice of another country; or

"(C) to reward good traditional customer countries in which the United States market share is too high to allow significant market share improvement.

"(5) TREATMENT OF OTHER ASSISTANCE.—In determining the United States market share of a targeted commodity in the case of a foreign country that has received shipments of food aid under the Agricultural Trade development and Assistance Act of 1954 (7 U.S.C. 1921 et seq.), food aid under section 416 of the Agricultural Act of 1949 (7 U.S.C. 1431), or a bonus under this section, the Secretary shall exclude 50 percent of the total volume of such shipments from the total quantity of targeted commodities imported by the country from the United States.

"(d) ELIGIBILITY.—To be eligible to receive a bonus, a foreign country must—

"(1) be a traditional buyer of a targeted commodity;

"(2) during the base period, have a United States market share for the targeted commodity for which the country would receive a bonus of at least 10 percent;

"(3) maintain a trading relationship with the United States; and

"(4) during a bonus period, import at least as much of the targeted commodity from the United States as the country imported from the United States during the preceding fiscal year.

"(e) QUANTITY.—

"(1) IN GENERAL.—Except as provided in paragraphs (2) and (3) and subsection (g), a bonus provided to a targeted country during a fiscal year as the result of the United States market share of a targeted commodity shall equal one third of the value of all imports of the commodity by the country from the United States during the base period.

"(2) TRANSITIONAL BONUS.—A bonus provided to a country under subsection (c)(3) during fiscal year 1988 to promote the export of a targeted commodity shall equal an amount determined by the Secretary of not to exceed 50 percent of the value of the imports of the commodity from all countries during the base period.

"(f) BONUS PERIOD.—

"(1) IN GENERAL.—Except as provided in paragraph (2), a bonus shall be distributed to a targeted country during the fiscal year following the base period.

"(2) EXTENSION.—If a target country demonstrates to the Secretary compelling reasons why the country is unable to complete sufficient commercial purchases during the bonus period required under paragraph (1), the Secretary may extend the bonus period by not more than 6 months.

"(g) REDUCTION OR ELIMINATION OF BONUSES.—

"(1) CONDITIONS.—Subject to paragraph (2), the Secretary may reduce or eliminate a bonus provided to promote the export of a targeted commodity to a targeted country if—

"(A) the bonus would severely undercut the prevailing world market price for the commodity;

"(B) the bonus would have a negative effect on the volume of United States exports of the commodity;

"(C) the bonus would exceed the quantity of agricultural commodities and the products thereof acquired by the Commodity Credit Corporation that are available to carry out this section;

"(D) the increased imports of the commodity would cause disastrous impairment to the economy of the country;

"(E) the President has taken action against the country under section 301 of the Trade Act of 1974 (19 U.S.C. 2411) during the 24-month period preceding the bonus period;

"(F) trade sanctions have been imposed against the country by the United States; or

"(G) the United States market share for imports of the targeted commodity has significantly deteriorated at any time during the operation of this section.

"(2) MINIMUM REDUCTION.—The Secretary shall reduce or eliminate a bonus under paragraph (1) only to the minimum extent necessary to remedy the reason for the action.

"(h) ADMINISTRATION.—In carrying out the program established by this section, the Secretary—

"(1) shall take such action as may be necessary to ensure that the program provides equal treatment to domestic and foreign purchasers and users of United States agricultural commodities and the products thereof in any case in which the importation of a manufactured product made, in whole or in part, from a commodity or the product thereof made available for export under this section would place domestic users of the commodity or the product thereof at a competitive disadvantage;

"(2) shall encourage increased use and avoid displacing usual marketings of United States agricultural commodities and the products thereof;

"(3) shall take reasonable precautions to prevent the resale or transshipment to other countries, or use for other than domestic use in the importing country, of agricultural commodities or the products thereof the export of which is assisted under this section; and

"(4) may provide to a United States exporter, user, processor, or foreign purchaser, under the program, agricultural commodities of a kind different than the agricultural commodity involved in the transaction for which assistance under this section is being provided.

"(i) INELIGIBLE COUNTRIES.—

"(1) ASSISTANCE.—If a country does not meet the eligibility requirements prescribed in subsection (d) for participation in the bonus program, the Secretary may provide to such country agricultural commodities and the products thereof acquired by the Commodity Credit Corporation to the extent necessary to help such country meet such qualifications in future years.

"(2) ANNUAL REVIEW AND ADJUSTMENT.—The Secretary shall review and adjust annually the quantity of commodities provided to a country under paragraph (1) in order to encourage such country to place greater reliance on increased use of commercial trade to meet the qualifications referred to in paragraph (1).

"(j) GREEN DOLLAR EXPORT CERTIFICATES.—

"(1) IN GENERAL.—In carrying out this section, the Secretary may make green dollar export certificates available to commercial exporters of United States agricultural commodities and the products thereof.

"(2) TERMS AND CONDITIONS.—The Secretary shall make such certificates available

under such terms and conditions as the Secretary determines appropriate.

"(3) AMOUNT.—The amount of such certificates to be made available to an exporter may be determined—

"(A) on the basis of competitive bids submitted by exporters; or

"(B) by announcement of the Secretary.

"(4) REDEMPTION.—

"(A) IN GENERAL.—An exporter may redeem a green dollar export certificate for commodities owned by the Commodity Credit Corporation.

"(B) VALUES.—For purposes of redeeming such certificates, the Secretary may establish values for such commodities that are different than the acquisition prices of such commodities.

"(5) ADMINISTRATION.—Such certificates—

"(A) may be transferred among commercial exporters of United States agricultural commodities; and

"(B) shall be redeemed within 6 months after the date of issuance.

"(k) IMPLEMENTATION.—The Secretary shall carry out the program established by this section through the Commodity Credit Corporation.

"(l) PRICE RESTRICTIONS.—Any price restrictions that otherwise may be applicable to dispositions of agricultural commodities owned by the Commodity Credit Corporation shall not apply to agricultural commodities provided under this section.

"(m) ADDITIONAL AUTHORITY.—The program established under this section shall be in addition to, and not in place of, any authority granted to the Secretary or the Commodity Credit Corporation under any other provision of law.

"(n) REPORTS.—

"(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act and each year thereafter, the Secretary shall prepare and submit a report on the effects of the operation of the bonus program carried out under this section, and the allocations under the program, to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestery of the Senate.

"(2) EFFECTS OF PROGRAM.—The report shall include an analysis of the effect of the bonus program on export sales, the economy of the target country, and the United States market share held by other major agricultural exporters in each target country.

"(o) QUALITY OF AGRICULTURAL COMMODITIES.—

"(1) MINIMUM AND MAXIMUM QUALITIES.—During each fiscal year that the program is in operation, the Secretary shall use agricultural commodities and the products thereof referred to in subsection (b) that are equal in value to not less than $333,000,000, and not more than $500,000,000, to carry out this section.

"(2) VALUE OF COMMODITIES.—For purposes of paragraph (1), the value of the commodities disbursed shall be determined by using the current market value of the commodities.

"(p) CERTIFICATES.—

"(1) FORM.—Agricultural commodities and the products thereof required to be provided under this section shall be disbursed in the form of certificates for commodities and products held by the Commodity Credit Corporation.

"(2) TYPE.—The Secretary may use either specific certificates for the specific targeted commodity, or generic certificates for other commodities, in carrying out this section.

"(q) TERMINATION OF AUTHORITY.—The authority provided under this section shall terminate on September 30, 1990.".

"(b) APPLICATION OF AMENDMENT.—The amendment made by subsection (a) shall apply to each of the fiscal years 1988 through 1990.

SEC. 3. USE OF AGRICULTURAL EXPORT AUTHORITY.

(a) SENSE OF CONGRESS.—It is the sense of Congress that the President, Secretary of Agriculture, and other appropriate members of the executive branch, use the authority granted under section 101, 102, and 103 of the Agricultural Trade Development And Assistance Act of 1954 (7 U.SC. 1701, 1702, and 1703), section 5(f) of the Commodity Credit Corporation Charter Act (15 U.S.C. 714c(f)), section 4 of the Food For Peace Act of 1966 (7 U.S.C. 1707(a)(a)), section 416 of the Agricultural Act of 1949 (U.S.C. 1431), section 1127 of the Food Security Act of 1985 (7 U.S.C. 1736v), and this Act to promote and expand exports of United States agricultural commodities and the products thereof.

(b) REPORT.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary of Agriculture and the Director of the Agency for International Development shall make and submit a report to the Committee on Agriculture of the House of Representatives, the Committee on Agriculture, Nutrition, and Forestry of the Senate, and the President on the potential to expand the use of authorities referred to in subsection (a) to promote the export of agricultural commodities and the products thereof to the countries referred to in paragraph (3).

(2) CONSULTATION.—The report required under paragraph (1) shall be prepared after consultation with the heads of government agencies, United States employees, and other interested parties in the countries referred to in paragraph (3).

(3) COUNTRIES.—This subsection shall apply to all countries that are traditional major recipients of food aid and agriculture export credit, including Mexico, Brazil, India, the People's Republic of China, Nigeria, Zaire, the Philippines, Iraq, Saudi Arabia, Turkey, El Salvador, Guatemala, Egypt, Algeria, Yemen, Morocco, Jordan, Tunisia, Benin, Romania, and Yugoslavia.

SEC. 4. COOPERATOR BONUS PROGRAMS.

(a) ESTABLISHMENT.—Notwithstanding any other provision of law, the Secretary of Agriculture may—

(1) provide, to bona fide overseas market development cooperator organizations, agricultural commodities acquired by the Commodity Credit Corporation, to be used to expand overseas purchases and market development for United States agricultural commodities and value-added products; and

(2) supplement commodities provided under an agreement entered into pursuant to section 101 of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1701), with an additional bonus of commodities owned by the Commodity Credit Corporation in a quantity not to exceed 10 percent of the volume of commodities provided under the agreement.

(b) ELIGIBILITY.—To be eligible to receive agricultural commodities under this section, an organization must be recognized by the Secretary of Agriculture as a current or future bona fide market development cooperator organization for overseas sales.

(c) ADDITIONAL AUTHORITY.—

(1) CURRENT APPROPRIATIONS.—The commodities provided under subsection (a)(1) shall be in addition to current appropriations supporting market development activities carried out by bona fide overseas market development cooperator organizations.

(2) LOCAL CURRENCY.—Foreign currency generations under subsection (a)(2) shall be in addition to the local currency generations required under title I of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1701 et seq.).

SEC. 5. FOOD FIRST POLICY.

(a) FINDINGS.—Congress finds that—

(1) a far greater proportion of foreign assistance should be provided in the form of food aid, with the proceeds from the sale of food to be used to fund foreign assistance activities; and

(2) such a shift in policy would benefit United States agricultural producers and the recipients of foreign assistance.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) in the case of each program established by the United States to provide food, economic and development aid to foreign countries, the head of the agency responsible for administering the program should grant a greater proportion of total assistance under the program in the form of food aid;

(2) the proportion of the total amount of assistance provided under each program that is granted in the form of food aid should be increased until it is equal to at least 33 percent of the total amount, except in those cases in which the head of the agency determines that the action would replace private United States agricultural sales; and

(3) not later than October 1 of each year, the President should submit an annual report to Congress detailing the extent to which the foreign assistance programs of the United States are conducted in accordance with this section.

Mr. ZORINSKY. Mr. President, I am pleased to be a cosponsor of this much-needed trade legislation offered by my good friend and colleague from Montana, Senator BAUCUS. It is obvious that Congress must act to formulate a consistent trade policy that will help recapture lost markets and restore U.S leadership in world agricultural trade.

The United States is no longer the only country that can produce agricultural commodities for export—in fact, there are now over 25 nations that produce more than enough to meet their own domestic consumption. We must recognize that having efficient, productive farm operations is not necessarily going to translate into sales in the international marketplace, especially if the agricultural policies and/or treasuries of foreign nations stand behind the farmers we are competing with.

To be competitive, we have to play the game. That means we must be price, quality, and terms competitive. The American farmer can no longer be left on the sidelines, while its Government lets sales slip away.

Just last week, I tried to convince the State Department to allow the use of the Export Enhancement Program

to make sales of United States wheat attractive to the People's Republic of China and Iraq. I believe that it is inexcusable for U.S. foreign policy or other unrelated considerations to stand as an impediment to our trade of U.S. commodities. I don't think we have to look very far to see why our agricultural exports have declined from $44 billion in 1980 to $26 billion in 1986, and why we have a total trade deficit of $169 billion projected for this year.

As the greatest capitalistic nation the world has ever known, we ought to be doing what we do best—compete economically. Perhaps we should relearn the lessons we have taught so well to other nations about how to both produce and market commodities.

This legislation targets the export enhancement program in an effort to develop strong commercial links with other countries. Although I personally support an across-the-board program to all customers, it is not inconsistent to establish priorities with good trading partners. While expansion of U.S. farm exports is a primary goal of the export bonus program, the program also serves as a challenge to unfair trade practices and encourages our trading partners to be responsive in negotiating resolutions to agricultural trade problems.

Sanctity of contracts is also furthered by this legislation. The President could only terminate contracts for the delivery of agricultural commodities if it is necessary in conjunction with a declaration of emergency or if we formally break relations with the contracting country.

In addition, the legislation encourages greater use of existing programs, and calls for the administration to increase the percentage of foreign assistance provided in the form of food aid. The Secretary of Agriculture is also authorized to provide surplus Commodity Credit Corporation commodities as a bonus to cooperators as part of commercial sales.

I urge my colleagues to join me in supporting this legislation.

Mr. BURDICK. Mr. President, the United States needs stronger action to boost agricultural exports. That's why I am pleased to join my colleagues in introducing the Agricultural Export Enhancement Act of 1987.

This measure includes several elements aimed at improving America's competitive position in world markets.

First, the bill would help assure our international customers that America will be a reliable supplier of agricultural products.

Second, the bill would revise the Export Enhancement Program to make it more attractive to our best customers.

Third, it would encourage the administration to use the existing export programs more aggressively.

Fourth, it would help boost commercial sales overseas through private market development cooperatives.

And finally, it would urge the administration to send more food aid overseas.

This is a strong package that includes the essential elements necessary to help reclaim the export markets the United States has lost.

America's farmers deserve better than the half-hearted efforts that have been made so far to increase agriculture exports. This legislation will give our export program the boost it needs.

RECOGNITION OF SENATOR REID

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Nevada [Mr. REID] is recognized for not to exceed 5 minutes.

PROTECTION OF TAXPAYERS' RIGHTS

Mr. REID. Mr. President, within the next few weeks I will be introducing legislation to improve protection for taxpayers' rights. This is not a new concern of mine; I introduced similar legislation during the last Congress in the other body which was cosponsored by 50 of my colleagues. However, I believe it is particularly relevant, in this the year of the 200th aniversary of our Constitution, to once again focus on the importance of protecting the legitimate rights of the individual from abuses of Government power.

Other governments have adopted constitutions and enacted bodies of law to define the legal authority of government, but our Nation is unique in its particular concern for protecting the individual citizen from Government abuse. At the time of adoption of our Constitution, the Founding Fathers also drew up a separate bill of rights to better define and protect individual rights. This includes:

Protecting freedom of speech and assembly; protecting the right to keep and bear arms; protecting citizens from forced quartering of military personnel; protection from unreasonable search and seizure; protection from self-incrimination; protecting the right to a speedy trial and a trial by one's peers; protection from cruel and unusual punishment; and protection of rights guaranteed by States.

These protections are as important today as they were 200 years ago. However, the area of greatest potential Government abuse today could not even have been envisioned by our Founding Fathers—this is the collection of Federal income taxes.

As the old line goes: "Nothing is certain in life but death and taxes." Unfortunately, in recent years it has also become much more certain that if a taxpayer finds him or herself in disagreement with the Government over taxes due, that taxpayer is likely to face exercises of Government power that would not be tolerated under any other condition.

That is why I believe it is vital that Congress more clearly define and more definitely limit the power of the Internal Revenue Service in their pursuit of tax collection and thereby insure the protection of legitimate individual rights. To that end, I will be introducing my taxpayer bill of rights legislation in the near future. This legislation addresses such problem areas as questionable tax enforcement practices, disclosure of rights and obligations of taxpayers, the awarding of costs to prevailing taxpayers, procedures involving taxpayer interviews, provisions of an ombudsman, GAO oversight of the IRS and an appeals process for adverse IRS decisions. One of the most important provisions of my bill would prohibit performance evaluations of IRS personnel, based upon the amounts collected from taxpayers through audit and investigation.

Last year we made the most sweeping overhaul of our tax structure in a generation. Much of the support for this tax reform effort was obtained by insuring the taxpayers of the Nation that these changes would make the tax system both fairer and simpler. I supported tax reform because I want to see the Tax Code made fairer and simpler. Now, I believe that we ought to take the next logical and consistent step and reform the process by which we collect taxes. In short, we should finish the job of tax reform by reigning in the Internal Revenue Service and insuring that our citizens have the same protections from potential abuses of power by the IRS that we guaranteed them in other areas of the law. There could be no more appropriate time to enact a taxpayers bill of rights than in the year of the 200th anniversary of our Constitution.

I urge my colleagues to carefully review this legislation when it is introduced, and I hope they will join me in supporting it.

Mr. President, I yield the floor.

ROUTINE MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of routine morning business for not to exceed 15 minutes, with Senators permitted to speak therein for not to exceed 5 minutes each.

CONGRESSIONAL SALARY INCREASE

Mr. WILSON. Mr. President, it is particularly appropriate that I rise to give notice to my colleagues that I intend to offer an amendment to the Clean Water Act to prevent the proposed $12,100 increase in congressional salaries.

The legislation which the Senator from Iowa [Mr. GRASSLEY] is proposing would make a highly desirable change. I do not think it will occur in time for us to be assured by process that the law will guarantee a vote by Members of Congress on this proposed increase. So, in order to deal with the increase that is before us—or, perhaps more accurately, not before us—one that will take effect in the event that there is congressional inaction to stop it, I am proposing this action.

Mr. President, it is wrong for Congress to vote itself a pay increase when we must spend the rest of the year trying to find ways to cut spending in order to trim the deficit to the $108 billion level required by law.

Many Members of Congress more than earn the proposed increase, but that is not the point. We have jobs, good jobs, that we asked our constituents to give us. We asked to be elected, knowing what this job paid. Even though many Members, especially those with young families, could use additional money to meet their obligations, we in fact receive compensation that most American families would envy.

The challenge to us is to create an economic climate that will create jobs for other Americans. To do that, we must cut the Federal budget deficit to hold down inflation and cut interest rates. By lowering the deficit, we will bring down a dollar that is still too strong against foreign currencies and begin to make American goods affordable once again and therefore once again competitive with foreign products. That is how reducing the Federal budget deficit will cut the trade deficit and protect American jobs.

Mr. President, there should not be and will not be a general tax increase to achieve a balanced budget. To increase taxes before the ink is dry on the tax reform bill passed by Congress months ago would be patently bad faith.

Mr. President, the only way that Congress and the President can reduce the Federal budget is to reduce spending. The challenge, then, is to cut spending, which in turn imposes on us the duty to set and to keep priorities.

What do we say to those arguing for services that we will have to cut if Members of Congress are seen to set an increase in our own pay as our first priority? What do we say to workers who are being asked by employers and union leaders to forbear from asking for wage increases so that the goods they make can be priced to be competitive with foreign goods both here and abroad?

Do we in Congress tell these workers that while we are not going to raise their taxes to raise our salaries, they are going to receive less in the way of services for their tax dollar in order to increase our pay? Absolutely not.

Mr. President, I will attach this amendment to the Clean Water Act reauthorization bill or to any other bill that we can expect to be debated and passed within the 30 days before the deadline by which Congress must act, that being the 30 days after we receive the President's proposal.

The law provides that this pay increase will become law unless Congress acts within that time to prevent its taking effect.

Mr. President, I do not think more need be said. The Senator from Iowa mentioned the deficit. The connection, I think, is clear, or should be. This is clearly the wrong time for a pay increase, and it has little to do with the merits of performance. It has little to do with need of some Members. It has to do with the need for Congress to give leadership, to set an example, at a time when we are called upon to reduce the deficit in a way that may involve sacrifice for other Americans.

I hope that a number of my colleagues will see fit to cosponsor this amendment—more important, that they will support it and take an action that I think is necessary to give assurance to the American people.

RELEASE CHICAGOAN ABE STOLAR

Mr. DIXON. Mr. President, Abraham Stolar's plight should come as no surprise to the U.S. Senate. Many years ago Mr. Stolar was brought to the Soviet Union by his parents. Abe is a native of Chicago, IL.

Abe Stolar wishes to return to the United States with his family. He informed Soviet emigration authorities of this in 1974. Since that time, Abe and his family have met repeated difficulties and refusals.

Mr. President, the 100th Congress must continue to place the highest priority on the Stolar family's tragic dilemma. Soviet authorities must constantly be reminded that the fate of those who wish to leave the Soviet Union matters deeply to the United States of America.

Abe Stolar asks to depart Soviet territory with his family. He asks for the opportunity to exercise a right so fundamental it is often taken for granted by many of us.

For these reasons, Mr. President, I have written an appeal to the Soviet leadership on behalf of the Stolar family, and I respectfully ask that each of my colleagues sign this appeal. The Soviet leadership must understand the seriousness with which the United States Senate views its treatment of Abe Stolar, his family, and every prisoner of conscience in the Soviet Union.

THE LIFE OF McDILL "HUCK" BOYD

Mrs. KASSEBAUM. Mr. President, yesterday, the State of Kansas laid to rest one of its most ardent native sons, McDill Boyd, better known to those of us who admired and loved him as "Huck."

Huck died on Friday at the age of 79 after a lifetime of service to his community, his State, and the Nation. He was the publisher of the Phillips County Review in his hometown of Phillipsburg. He had served on the Republican National Committee since 1965 and was actively involved in helping to install a new Governor in office at the time of his death.

Huck Boyd held many titles and won many honors but his life was far more than the sum of offices held, awards won or duties performed. Even at age 79, Huck exuded an energy and enthusiasm that infected all those he met. And he brought to every task that he faced a vital, special quality—an honest, unshakable commitment to helping others without regard to personal recognition.

When rural areas of Kansas faced a shortage of doctors, Huck became involved in creating a program to solve the problem. When rail service in northwestern Kansas was terminated, Huck helped organize a group that now operates trains through dozens of small towns. When a person in Phillipsburg was hungry or unemployed or in need of help. Huck Boyd would quietly lend a hand.

Huck believed that good citizens are the first resort of democracy and that government, while a necessary and desirable feature of our life, should be used sparingly. He backed that belief with his own tireless personal example.

Huck also wasn't shy about his politics. He began as a Democrat but spent most of his years in service to the Republican Party. He was from the old school of politics. He was fascinated by high-tech television campaigns but believed that no amount of gimmickry could beat a sensible candidate who focused on good issues.

Huck was a partisan in the finest sense of the world. He never claimed that any one party or person had a monopoly on the truth or a corner on wisdom. But he believed that politicians should speak their minds and fight for what they considered important so that voters could make a reasoned judgment on election day.

Like any human being, Huck also had his flaws. He could be stubborn.

He could even be downright cantankerous at times. But even when you disagreed with him, it was always clear that he cared—deeply and honestly. His concern, and the time and energy he spent so freely for others, made a difference in thousands of lives and in the life in Kansas.

Those of us who knew Huck well, and counted him a good friend, will miss his sense of humor when things go wrong and his calm, steady presence when they get even worse. His example and his spirit are the legacy he left to us. None of us could leave more and Huck Boyd wasn't the kind of person to leave anything less.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Morning business is closed.

WATER QUALITY ACT OF 1987

Mr. BYRD. Mr. President, under the agreement that was entered on yesterday, the majority leader was authorized to call up the House bill on clean water at any time today, following the conclusion of routine morning business, after consultation with the Republican leader, and make that bill the pending business before the Senate.

The majority leader and the minority leader have consulted, and therefore I exercise the authority under the order and ask that the Chair lay before the Senate the House bill on clean water.

The ACTING PRESIDENT pro tempore. The clerk will now report H.R. 1.

The legislative clerk read as follows:

A bill (H.R. 1) to amend the Federal Water Pollution Control Act to provide for the renewal of the quality of the Nation's waters, and for other purposes.

The Senate proceeded to consider the bill.

The ACTING PRESIDENT pro tempore. The Senator from North Dakota is recognized.

Mr. BURDICK. Mr. President, I rise in strong support of the Water Quality Act of 1987. In a moment I will yield to Senator MITCHELL, chairman of the Subcommittee on Environmental Protection, who I have asked to be the floor manager of this bill. But before I do so, I want to briefly discuss why the passage of this bill is so important and so timely.

H.R. 1 is historic legislation that will expand and strengthen the Clean Water Act. This bill has been over 3 years in the making. It has been through the hearing process in two Congresses. We held extensive markups in the Environment and Public Works Committee. The bill passed the Senate and was considered in a lengthy conference with the House. H.R. 1 before us today, like its counterpart S. 1, is identical to the bill approved by the House/Senate conference committee and passed unanimously in both houses of Congress last year. The legislative history for that bill, S. 1128, from its committee report to its conference report, is the legislative history of H.R. 1.

If it were not for the President's unfortunate action in pocket vetoing this bill late last year, this exact bill would already be law.

I want to commend my colleagues on the Environment and Public Works Committee for their excellent work in the development of this legislation.

My predecessor as chairman of the committee, the distinguished Senator from Vermont, guided the committee through development of this and other vital environmental legislation over the past several years.

Senators BENTSEN and MITCHELL, during the last Congress the ranking minority members of the full committee and the Subcommittee on Environmental Pollution respectively, made tremendous contributions to this Clean Water Act reauthorization.

And I want to specifically congratulate Senator CHAFEE. He is the architect of this legislation. He chaired the hearings we held on clean water in the Environment Committee. He managed the bill on the Senate floor. And he spoke for the Senate conferees during the long and intense conference with the House on this legislation. The high quality of this legislation is largely due to his efforts.

Since its passage in 1972, the Clean Water Act has brought about a remarkable improvement in the quality of our rivers, lakes, streams, and marine waters.

A recent study of water quality conditions concluded that, between 1972 and 1982, the percentage of monitored stream miles considered clean rose from 36 to 64 percent. This represents the cleanup of roughly 47,000 miles of streams at a time when population rose by about 10 percent. We can point to similar success in cleanup of lakes and estuaries.

We have ample evidence that the Clean Water Act works. But we also have evidence that there is still a great deal of cleanup work to be done.

About 30 percent of the rivers most used for recreation and other purposes do not meet the standards we have set for them. Almost 15 percent of our most used lakes are polluted. There is evidence of serious water pollution problems in our marine bays and estuaries.

This legislation is designed to keep us moving forward in our drive to clean up our waters. It improves a number of the existing programs in the act. And, it provides new approaches to address emerging water pollution problems.

The changes to existing programs are necessary and appropriate, but the real heart of our bill are the new provisions addressing emerging problems.

The 1977 amendments to the Clean Water Act provided a major reorientation of the best available technology requirements to the control of toxic pollutants. Now we have discovered that even with the implementation of best available technology, many waters will still have serious problems of contamination with toxic pollutants. In this legislation we have developed a new program for identification of waters affected by toxic pollutants and implementation of specific controls to reduce these toxics. This will involve the adoption of numerical water quality criteria, and the development of effluent limitations to assure that water quality standards for toxic pollutants are attained.

We have developed a new program for management of nonpoint sources of pollution, such as general runoff. Nonpoint pollution is thought to cause over half of our remaining water quality problems. The bill authorizes $400 million to encourage the development of State nonpoint source management efforts.

We have developed a new program for protection of marine waters and estuaries which is based on our experience dealing with the problems of the Chesapeake Bay.

And, we have designed a new approach to assisting communities in construction of sewage treatment plants. We will continue to provide grants for several years, but will then provide Federal funds to capitalize State revolving loan funds. States will use these loan funds as a permanent resource for assisting in the financing of water quality projects. The Federal grant program will have been phased out, but sewage treatment plant construction and replacement can continue.

Let me mention just a few of the improvements to existing provisions of the Clean Water Act.

Our bill would tighten existing civil and criminal penalty provisions of the act.

It provides an improved and less burdensome process for control of discharges of stormwater, particularly for municipalities.

It provides for better monitoring and reporting of the quality of our lakes, with a demonstration program for putting lake cleanup techniques into place.

It assures that modifications of permit requirements for toxic or nonconventional pollutants will be handled only in accordance with strict new legislative guidance.

It limits circumstances in which effluent limitations achieved in permits can be weakened in subsequently issued permits.

And, it tightens provisions for waivers from secondary treatment for discharges of sewage to marine waters.

Mr. President, this is good, solid legislation, developed over a period of years by the Environment Committee and our colleagues in the House of Representatives. It has the support of the full range of industry and environmental groups.

This legislation responds to the desire of the American people for clean water and a safe environment.

I hope that every one of my colleagues will join me in voting for this bill.

(Mr. BREAUX assumed the chair.)

Mr. MITCHELL. Mr. President, I rise in support of H.R. 1, the Water Quality Act of 1987.

This legislation will extend and strengthen one of our most fundamental environmental protection laws—the Clear Water Act.

Over the past several months, we have heard and read a great deal about the many specific provisions of this bill. I would like to take a moment to step back and look at the big picture.

This bill deserves the support of every one of my colleagues in the Senate for at least three reasons.

It is bipartisan legislation; it is necessary legislation; and it has the overwhelming support of the American people.

Let me review the exceptional, bipartisan support for this legislation.

During the last Congress, the leadership and members of the Environment and Public Works Committee worked together to draft a balanced, responsible bill addressing our most pressing water quality problems. I was pleased to work with Senator CHAFEE, who was then chairman of the subcommittee of jurisdiction; Senator STAFFORD, who was then chairman of the full committee; Senator BENTSEN, who was then the ranking member of the full committee; and Senator BURDICK, who is now the chairman of the committee. Together we brought a fine bill to the full Senate, which approved it unanimously.

Senator CHAFEE served as chairman of the Senate conferees for the conference with the House. More than any other individual, he deserves credit for this legislation. Senator CHAFEE's diligence, his innovativeness, his commitment to protecting the American environment made this bill possible.

Under Senator CHAFEE's leadership, the conference adopted the more reasonable Senate approach to funding of sewage treatment projects and adopted the best of the regulatory improvements contained in both bills. Again, this effort was so successful that both the House and the Senate adopted the conference report unanimously.

Even after the President's unfortunate veto of the bill, bipartisan support remained firm. The House of Representatives recently approved a bill identical to the one before us today by a vote of 406 to 8.

In the Senate, the majority leader and the new chairman of the Environment and Public Works Committee, Senator BURDICK, have worked hard to bring the bill to the floor and assure its passage. And, Senators CHAFEE and STAFFORD have joined us in this effort, along with many other Senators—77 in all—who cosponsored the bill.

Part of the reason the bill has such broad support in Congress is that it is recognized as sound legislation addressing some of our most pressing water pollution problems.

I will later in the debate speak in great detail about many of the important provisions in the bill. I will at this point briefly comment on some of the key provisions.

The bill provides a new approach to control of toxic pollutants in water. Although the current law provides general authority for toxics control, this legislation initiates a specific process designed to identify and control these toxic substances.

The legislation requires States to identify waters that do not meet water quality standards due to the discharge of toxic pollutants; to adopt numerical criteria for the pollutants in such waters; and to establish effluent limitations for individual discharges to such water bodies.

This provision is an important addition to our ability to protect water quality and public health from increasing amounts of toxic chemicals.

Another key element of the bill provides for State programs to identify and control nonpoint source pollution. Nonpoint pollution is caused by general runoff, rather than discharge from a specific pipe. These nonpoint sources of pollution are thought to cause over half of our remaining water pollution problems.

States will identify waters affected by nonpoint sources of pollution and develop programs to implement best management practices for controlling this pollution. State programs will include a schedule for implementation and will be coordinated with related Federal projects.

Finally, the bill gives State and local governments a clear statement of future Federal involvement in treatment plant financing and allows them to finalize plans to meet the compliance deadlines established in the law. It provides for a transition from the current grant program to a program providing Federal support for State revolving loan funds.

Establishment of loan funds will provide States with a permanent resource for funding of sewage treatment and other water quality related projects.

The final reason to support the bill is it has the overwhelming support of the American people.

A wide range of industry and environmental groups support the bill. And, polls show that the public favors continued effort to improve water quality by large margins. Final enactment of this legislation is an important step toward carrying out this mandate.

The only argument advanced against this bill has been advanced by the President, who says that it is too costly; that we cannot afford it. This bill calls for the expenditure of $18 billion over 9 years to clean up America's waters. In the budget he recently proposed to the Congress, the President asks for an increase of $1.7 billion in foreign aid, which would raise that expenditure to a new record level of nearly $15 billion.

Thus, President Reagan proposes to devote nearly $15 billion in 1 year to foreign aid, while Congress proposes to spend $18 billion over 9 years to clean up America's waters.

How can the President, or anybody else, say that we cannot afford to keep America's waters clean, while at the same time proposing a multibillion dollar increase in foreign aid, proposing to spend in 1 year on foreign aid nearly as much as the Congress wants to spend in 9 years to clean up America's waters?

I do not believe that those are the right priorities for our America. I do not believe the American people share the President's priorities on this issue. They want clean water. They favor this bill overwhelmingly.

In conclusion, Mr. President, I hope that every one of my colleagues will support this bill. There are very few opportunities to vote for substantive legislation which has broad, bipartisan support, which is recognized as sound, thoughtful legislation, and which is supported overwhelmingly by the American people.

This is a winning combination which deserves the unanimous support of the Senate.

I would like to note that this bill is virtually identical to the bill approved last year by both Houses of Congress. The legislative history of this bill, therefore, includes the conference report (House Report 99-1004), and the Senate debate on the conference report, as well as the report of the Environment Committee on the committee bill, S. 1128, and the Senate debate on the committee bill.

Mr. President, I ask unanimous consent that the following staff members be accorded privileges of the floor during debate and all votes related to consideration of the Water Quality Act.

They are: Lee Fuller, Peter Prowitt, Phil Cummings, Jeff Peterson, Kate

Kimball, Nan Stockholm, Ron Cooper, Seth Mones, Kathy Cudlipp, Bob Hurley, Bailey Guard, Ron Outen, Jimmie Powell, Steve Shimberg, and Elizabeth Thompson.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, I yield to my distinguished colleague, Senator CHAFEE, who as I said in my earlier remarks is the individual most responsible for the drafting and enactment of this legislation in the last Congress. He devoted nearly 2 years to this effort. The American people owe him a great debt of gratitude for his leadership.

Thank you, Mr. President.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, first I would like to thank my distinguished colleague, Senator MITCHELL, for those very kind remarks and also thank the distinguished chairman of our committee, Senator BURDICK, for his generous comments on my work in connection with this legislation.

Let me just say to start with, Mr. President, that for the efforts of Senator MITCHELL in the subcommittee where he and I worked so closely together and then when we moved to the full committee where the results of our work were pressed ahead by not only Senator MITCHELL, but Senator STAFFORD, Senator BENTSEN, and Senator BURDICK, and thus we emerged from the committee with a unanimous vote, came to the floor, and with the vigorous support of those Senators; namely, Senator MITCHELL, Senator BURDICK, Senator BENTSEN, and Senator STAFFORD, we were able to achieve an overwhelming vote here on the floor of the Senate with our original legislation.

Then we went to conference, and again the help of those Senators was so essential to the approval of this legislation. I will touch briefly as I proceed here on the differences between the two bills when we went to conference, and what we came out with.

What we are dealing with, of course, is the bill before us, H.R. 1, which, as has been mentioned, is absolutely identical to the conference report on S. 1128, which passed last October in this Senate by a vote of 96 to nothing and which was passed by the House 408 to nothing. It is pretty hard to get anything passed 408 to nothing in the House and 96 to nothing in the Senate. Possibly a motherhood resolution, but not much else will pass with those overwhelming margins.

That is a tribute to the confidence which the Members of this Congress have in this legislation. The original bill passed the Senate in June 1985 and the House bill shortly thereafter. Then we had some 15 months of conference or preconference developments. Out of that we were able to fashion this compromise. As Senators BURDICK and MITCHELL so generously commented I had the privilege of being the leader of the Senate conferees at that conference with the House. I can tell my colleagues that this is strong environmental legislation. I can also say it is fiscally responsible. Let us touch a minute on the construction grants.

The House originally passed a bill of $21 billion on construction grants, and about $6 billion in special projects and programs making a total of almost $27 billion. The Senate bill was a little less than $20 billion. We had $18 billion for construction grants, and $1.5 billion-plus for other programs. We went to conference. Here we come with the Senate bill which is little less than $20 billion, the House with $27 billion, and from the conference we emerged with a bill for a total package of $20.7 billion. In other words, it was just about at the Senate figure, and $6.2 billion below the House figure.

Despite the pleas of many of us, despite the fact that there was this overwhelming vote in both bodies on the conference report, the President chose to pocket veto the legislation. That decision came as a big disappointment to me. I had made strenuous efforts as did many others to encourage and urge the President to sign the legislation because we could see what was going to happen. We could see the scenario play out exactly as it has. I made a pledge at the time that we would come back with the same bill. So did Senator MITCHELL, Senator BENTSEN, Senator BURDICK, and others, and of course Senator STAFFORD, who also strongly urged the President to sign the measure.

So here we are. The bill is exactly the same as was passed in the conference. It has already passed the House, is now in the Senate, and will soon be passed here.

Failure to enact this legislation will seriously delay the cleanup of our rivers and streams. And it will jeopardize hundreds of projects across the Nation including many in my home State of Rhode Island.

It has been charged that this legislation is budget busting. That is simply not the case. Although $18 billion authorized in the bill for wastewater treatment projects exceeds the administration's request, it is within current funding levels and it conforms to the budget resolution. No one is dismissing $18 billion as being a petty amount of money. It is a substantial amount of money. But it is a small sum compared to the more than $75 billion that it is estimated by EPA to be required to build all the facilities that are necessary to clean up our waters. So we are coming forward not with $75 billion but with $18 billion, and, furthermore, this program ends. It is over with in 1993. That is something that the administration has sought so vigorously, and we have come forward and have done that.

I would also like to remind my colleagues of a commitment that we had from the administration in 1981 when this administration came to office. At that time, we went through some major reforms in the construction grants program. Just listen to some of them.

The 1981 amendments reduced the annual authorization for this program by more than half, from $5 billion to $2.4 billion a year. That is one thing we did. We cut out many of the eligible categories such as collector sewers. They are out. They are not permitted any more. We eliminate certain interceptor sewers. We do not provide funding for them, and we do not provide funding for certain combined sewer overflows. Furthermore, in a very major step we only provided Federal money for existing population. No State can come in to us and say we are projected to grow by 40 percent in the next 10 years, give us Federal money for that. No.

You ought to provide for that yourself. We will give you money now to clean up our rivers and streams and you are required to come up with the additional money as your growth takes place. It is not the Federal Government's duty to provide money to you for all your growth in the future.

Our goal in 1981 was to cut out any so-called pork out of the program and change the focus from growth and development projects to building facilities to clean up our waters.

What did we get in exchange? I might say this was a bitter pill for many people to swallow, but we did it, in very intense negotiations with the House of Representatives in the conference that we held at that time which I had the privilege to be chairman of.

In exchange for tightening up the program and reducing the authorization, the administration committed itself to a funding level of $2.4 billion each year for 10 years, from 1981 to 1991. This legislation lives up to that commitment, and I might say goes a step further. It phases out a very popular program after 1994. Yet we do it in a highly responsible way.

The Water Quality Act of 1987, this bill, assures compliance with a strong water quality standards program and provides for greater control over toxic, conventional, and nonconventional pollutants, as our distinguished chairman previously mentioned. It establishes a new program to control pollution from nonpoint sources, as Senator MITCHELL touched upon. Nonpoint sources, as he said, is rain which washes off from city streets, or flows off of agricultural fields and is contaminated with pesticides and insecticides. It is different from point

sources, such as a discharge from a municipality or a factory.

And, as I mentioned, H.R. 1 continues funding of waste water treatment works at the $2.4 billion level annually through fiscal 1991. Thereafter, it gets into the establishments of a revolving fund to ease the transition to full State and local sufficiency.

I would like to take a few moments to touch on some of the key provisions of the bill. For a more complete explanation, I ask my colleagues to refer to last year's debate when we had this program come up, and the conference report accompanying S. 1128, which was the number of the bill last year.

The legislation strengthens several regulatory programs. One such program relates to nonconventional pollutants.

Under current law, modifications can be sought from strong discharge requirements for so-called nonconventional pollutants, many of which, as Senator BURDICK mentioned before, are highly toxic. In an effort to severely limit the circumstances in which these weaker modifications can be given, the conference report allows these modifications only for five specific pollutants. If other pollutants are to be listed for modification, EPA has to go through a special procedure. This procedure requires the Administrator to first determine whether a pollutant meets the criteria of toxic pollutant.

If it does, then the pollutant must be listed as toxic from which no variance can be received. If the pollutant is not found to be toxic, the Administrator must then determine whether it can be listed under section 301(g) as a nonconventional pollutant. If it meets that test, the Administrator must finally determine whether an applicant applying for a modification from the effluent guideline for that particular pollutant can meet the test contained in section 301(g). It is expected that each of these steps be conducted through the formal regulatory process. It is also important to note that a stay of requirements for control of pollutants other than the nonconventional pollutant for which the modification is being sought is prohibited.

The legislation also contains provisions which severely limits the opportunities for which discharges can get modifications for fundamentally different factors. A key provision under the fundamentally different factors section specifically excludes consideration of costs, independent of other eligible factors, as a basis for establishing a fundamental difference with regard to an individual facility. Section 304 of the Clean Water Act authorizes the EPA to consider the cost of achieving effluent reductions, in addition to other factors, in development of a guideline for an entire industry. The EPA needs to consider cost when developing a guideline for an industry in order to determine the best available technology for water pollution control which is economically achievable for an entire industry.

While a guideline is intended to account for economic impact on an entire industry, it is not intended to account for the economic impact on each individual facility. The 1972 Clean Water Act Conference Report stressed this point, directing EPA to make the determination of the economic impact of an effluent limitation on the basis of classes and categories of point sources, as distinguished from a plant-by-plant determination. If a facility facing higher costs than the overall industry is allowed to reduce costs then the overall industry is allowed to reduce treatment levels below the minimum level, the degree of pollution control at a facility is linked to the economic efficiency of the facility, rather than the economic ability of the industry, and the principle of an industrywide minimum level of treatment loses its meaning.

Although the act does not and should not provide a mechanism to modify the requirements of an effluent guideline on the basis of fundamentally different costs at an individual facility, section 301(c) of the act provides for modification of requirements in a case where such requirements are beyond the economic capability of the owner. Section 301(c) does not allow the Administrator to modify treatment requirements based on a showing of fundamentally different costs to an individual facility, unless these costs are beyond the economic capability of the facility and, therefore, threaten its survival. In addition, section 301(c) is subject to section 301(1), which prohibits the Administrator from modifying any requirement as it applies to a toxic pollutant. This provision assures that toxic pollutants will be controlled, regardless of the economic capability of the discharger. The new authority for treatment modifications based on fundamentally different factors contained in the bill is not subject to section 301(1).

Section 301(n)(6) provides that an application for an alternative requirement under this section shall not stay the facility's obligation to comply with the effluent limitation guideline or standard which is the subject of the application. This provision is intended to prevent EPA or the State, or the POTW in the case of indirect discharge, from delaying issuance of the permit or pretreatment mechanism during the pendency of an application.

The owner or operator of a facility seeking an FDF modification has the burden of proving to the satisfaction of the Administrator that the facility is eligible for an alternative requirement under this section. The Administrator's decision to promulgate or deny an alternative effluent limitation or standard under this subsection shall be subject to judicial review pursuant to section 509(b)(1) of the act.

The Administrator may not delegate the authority provided by this subsection to any State. In addition, the authority of this section should be exercised only by the Administrator or Assistant Administrator for Water, rather than regional or other officials. The Administrator shall obtain the concurrence of a State before approving any alternative requirements under this subsection.

The bill also contains provisions continuing the Chesapeake Bay program; it establishes a Great Lakes water quality program and sets up a new national estuary program which provides that management conferences develop control strategies to assist in the clean up of estuaries. This is especially important to the Narragansett Bay in my State of Rhode Island which suffers from degradation of water quality.

Before I finish about the Chesapeake Bay, we are making great progress in that bay. We have had extraordinary cooperation from the States involved—Maryland, Virginia, and Pennsylvania. It is just an example of what can be done with some Federal input.

Funds in this bill are also set aside for correction of combined sewer overflows which can cause serious pollution in our State's more precious natural resource, the Narragansett Bay, and other estuaries around the Nation.

As Senator MITCHELL pointed out, a new nonpoint source control program is included in the legislation. The program would authorize $400 million over 4 years for States to develop comprehensive programs to abate such pollution runoff from urban areas and from farmlands which are often contaminated with toxic and other pollutants.

I might say this is a major step forward. People have discussed nonpoint pollution for a long time. But we have not gotten into it for a variety of reasons. One of them is the fear of local communities and the States that for some reason we might be getting into zoning control in those areas. How are you going to keep a field from draining off into a stream? How are you going to control that? Is the Federal Government stepping in to say to a farmer he cannot do this or do that?

So we are moving cautiously with $400 million over 4 years for the States to develop the programs, not the Federal Government, but the States.

This legislation also beefs up the enforcement provisions of the act by increasing penalties for civil and criminal violations. It adds a new authority for the Administrator to assess administrative penalties against unpermitted

discharges. The Administrator can do that, assess the penalties on violators.

EPA has new authority to assess penalties against the unpermitted discharges. I expect EPA to use this authority aggressively against illegal polluters, even if a memorandum of agreement is not concluded with the Secretary of the Army.

The corps enforcement record—and the Corps of Engineers is involved in this—shows the corps has not been vigorous enough against illegal dumpers. Now we have given EPA the authority to move against these polluters.

New paragraph 309(g)(6) sets out limitations that preclude citizen suits where the Federal Government or a State has commenced and is diligently prosecuting an administrative civil penalty action or has already issued a final administrative civil penalty order not subject to further review and the violator has paid the penalty. The same provision limits Federal civil penalty actions under subsections 309(d) and 311(b) for any violation of the Federal Water Pollution Control Act. While redundant enforcement activity is to be avoided and State action to remedy a violation of Federal law is to be encouraged, the limitation on Federal civil penalty actions clearly applies only in cases where the State in question has been authorized under section 402 to implement the relevant permit program.

A single discharge may be a violation of both State and Federal law and a State is entitled to enforce its own law. However, only if a State has received authorization under section 402 to implement a particular permitting program can it prosecute a violation of Federal law. Thus, even if a nonauthorized State takes action under State law against a person who is responsible for a discharge which also constitutes a violation of the Federal permit, the State action cannot be addressed to the Federal violation, for the State has no authority over the Federal permit limitation or condition in question. In such case, the authority to seek civil penalties for violation of the Federal law under subsections 309(d) or 311(b) or section 505 would be unaffected by the State action, notwithstanding paragraph 309(g)(6).

In addition, the limitation of 309(g)(6) applies only where a State is proceeding under a State law that is comparable to section 309(g). For example, in order to be comparable, a State law must provide for a right to a hearing and for public notice and participation procedures similar to those set forth in section 309(g); it must include analogous penalty assessment factors and judicial review standards; and it must include provisions that are analogous to the other elements of section 309(g).

Finally, section 309(g)(6)(A) provides that violations with respect to which a Federal or State administrative penalty action is being diligently prosecuted or previously concluded "shall not be the subject of" civil penalty actions under sections 309(d), 311(b), or 505. This language is not intended to lead to the disruption of any Federal judicial penalty action then underway, but merely indicates that a Federal judicial civil penalty action or a citizen suit is not to be commenced if an administrative penalty proceeding is already underway.

NOTICE OF CONSENT DECREES

This bill requires that, in connection with citizen suits, notification of proposed consent decrees be provided to the Attorney General and to the Administrator.

It was originally proposed in the Administration's bill 2 years ago. The Administration bill contained a clause which specifically disclaimed that the United States could be bound by judgments in cases to which it is not a party.

That provision merely restated current law and thus we decided that it is not necessary to include it in this bill. The amendment is not intended to change existing law that the United States is not bound, since that rule of law is necessary to protect the public against abusive, collusive, or inadequate settlements, and to maintain the ability of the Government to set its own enforcement priorities.

Compliance dates for industries for which effluent guidelines have not been promulgated have been extended to March 1989.

We have had a big problem over when you have to come into compliance because of the guidelines. EPA has not been quick enough to come out and tell industry A or industry F what they can and cannot do. So we have reluctantly given them an extension on these guidelines. The latest is March 1989, or 3 years from the date of promulgation of the guidelines by EPA, whichever is sooner. EPA is strongly encouraged to get these guidelines finalized so industry can comply with the discharge requirements as soon as possible. Until such guidelines are promulgated, the Agency is expected to proceed under its current policy with respect to noncompliance dischargers to meet the deadline.

A provision establishing a progressive storm water control program is included in the bill. Although the law now requires EPA to establish discharge requirements for the storm water point sources, EPA has been unable to develop a final permit program for these sources. This legislation sets up a program whereby EPA must issue permits for storm water point source discharges in municipalities with population of over a quarter million within 4 years of enactment.

Within 5 years of enactment, permits for storm water point sources discharges are required in cities with populations between 100,000 and 250,000. These discharge requirements are to contain control technology or other techniques to control these discharges and should conform to water quality requirements. Requirements for stormwater discharges associated with industrial activities are unaffected by this provision. The Agency has been unable to move forward with a program, because the current law did not give enough guidance to the Agency. This provision provides such guidance, and I expect EPA to move rapidly to implement this control program.

The legislation also contains the Senate provision relating to the Chicago tunnel and reservoir project. This is something that has been around for many, many years. This provision only allows funding for this project under section 201(g)(1) without regard to the limitation contained in the provision if the Administrator determines that such project meets the cost-effective requirements of section 217 and 218 of the act without any redesign or reconstruction. The Governor of Illinois must demonstrate to the satisfaction of the Administrator the water quality benefits of the project. This provision does not apply to the cost-sharing requirements under the other applicable provisions of the bill.

The legislation modifies EPA's current policy with respect to antibacksliding on best practical judgment and water quality-based permits. The thrust of this provision is to generally prohibit affected permittees from weakening their discharge requirements as a result of subsequently promulgated guidelines. Only in very narrow circumstances can backsliding be permitted, and in no event can it be permitted even if, after a discharger leaves a stream, there is an improvement in water quality, unless the antidegradation policy test is met. That test states that water quality may be lowered only if widespread adverse social and economic consequences can be demonstrated through a full intergovernmental review process.

S. 1 also embodies many of the construction grants and revolving loan fund proposals contained in the bill first passed by the Senate in 1985. In other words, this bill was passed, as I mentioned earlier, in 1985; we went to conference with the House, but we kept many of the provisions dealing with the construction grants and the revolving loan.

The bill extends the current $2.4 billion annual authorization for title II construction grants for 3 years. In fiscal years 1989 and 1990, the annual authorization for title II would be re-

duced to $1.2 billion. After that, there is no more; no further authorizations would be made for title II after fiscal year 1990, and the money is shifted over into the revolving grants program.

States would be provided with sufficient leadtime to begin setting up State revolving loan programs. The bill encourages the creation of these self-sustaining financing entities at the earliest opportunity by providing each State with an option of converting title II construction grants funds into capitalization grants for SRF's.

Beginning in fiscal year 1989 and continuing in fiscal year 1990, $1.2 billion a year would be authorized specifically for capitalizing SRF's under the new title VI. In fiscal year 1991, the amount would be increased to $2.4 billion. Thereafter, the SRF authorization would gradually be reduced by providing $1.8 billion in fiscal year 1992, $1.2 billion in fiscal year 1993, and $600 million in fiscal year 1994. After fiscal year 1994, all authorizations for direct Federal contributions to municipal wastewater treatment or SRF's would be ended.

[In billions of dollars]

	Construction grants (title II)	Revolving loan fund (title VI)
Fiscal years:		
1986	$2.4	
1987	2.4	
1988	2.4	
1989	1.2	$1.2
1990	1.2	1.2
1991		2.4
1992		1.8
1993		1.2
1994		.6

The total authorizations for titles II and VI amount to $18 billion and will ensure that the core treatment-related needs identified in the 1981 amendments will be met.

This approach lives up to the commitment made by Congress and the administration to support an annual appropriation of $2.4 billion over the 10-year period of 1981 through 1991 to meet the needs for construction of wastewater treatment facilities. That commitment was restated by then-EPA Administrator William Ruckelshaus at a budget hearing before the Environment and Public Works Committee in 1984. His statement is as follows:

I think that while there may be some at OMB who would prefer not to see this kind of program continue, I have not run in personally to those people at OMB, and there is an understanding that there is an agreement with the Administration and with the Congress that for 10 years this level of funding, at least, is a commitment. If you will note, the difference between what we submitted to the President in terms of our budget and what we are now requesting is somewhat less. We went down to $2.4 billion as a result of that commitment. That was something the Administration put back into our budget over our submission.

A slight change in the allotment formula for grants to the States is contained in the bill.

The revolving loan fund embodied in this legislation presents a great opportunity for the States to eventually assume full responsibility for construction of wastewater treatment facilities in their jurisdictions.

States must first use the funds in the loan fund on projects needed to meet the 1988 municipal deadline requirement for secondary treatment. After that requirement is satisfied, loan funds may also be spent on activities eligible under the Nonpoint Pollution Program and the National Estuary Program.

In an effort to encourage cities to move forward with construction of treatment facilities to meet the 1988 deadline, the legislation allows for refinancing under the loan program of projects which were begun after March 7, 1985. Although these projects should be on the State priority list to be eligible for refinancing, prior agreements between the State and the municipality should be honored in the event the project is no longer on the priority list.

Mr. President, I would like to conclude by saying passage of this legislation gives us an opportunity to renew our commitment to the national goal of making all of our waters fishable and swimmable.

That was the goal we started out with when we started this legislation back in the early 1970's.

The Water Quality Act of 1987—this bill—strengthens the existing provisions of the Clean Water Act and establishes new cleanup programs which will greatly enable us to address a new generation of subtle—and more devastating—problems posed by toxic pollution, storm water discharges, nonpoint pollution and contamination of sludges.

As I said earlier, a few months ago, the Senate passed this clean water bill by a vote of 96 to 0. I hope my colleagues will again give this legislation the same resounding show of support and vote "yes" to continue the job of cleaning up our Nation's waters.

This bill is within the agreed-upon authorization level of $2.4 billion for wastewater treatment facilities passed by the Senate and contained in the budget resolution. It provides for the orderly phaseout of the construction grants program. And most importantly, it gives the American people what has been reflected in public opinion polls conducted across the land as cited by the distinguished Senator from Maine [Mr. MITCHELL] previously—that they want clean water.

Once again, let me say how much I do appreciate the support and work of the chairman of our full committee, Mr. BURDICK; of course, of Senator STAFFORD, who has been such a tower of strength in these matters right from the beginning; of Senator MITCHELL, the new chairman of the Environmental Pollution Subcommittee, for everything he has done ever since he has been in the Senate. He has been a real leader in environmental matters and the Nation owes him a debt of gratitude.

I thank Senator BENTSEN, who has worked so hard in this matter and was a key man in the conference we held last fall; and all the other members of the Environment and Public Works Committee who have taken such an interest in this legislation.

Finally, I wish to thank the staff: Phil Cummings, Bob Hurley, Jeff Peterson, Ron Outen, Steve Shimberg, Jimmie Powell, Cathy Cudlipp and so many others. It is dangerous for me to get into naming them, but each of them has worked very, very hard on this legislation. As one member of the committee and as has been previously stated by other speakers, we are very much indebted to them for what they have done.

I thank the Chair.

The PRESIDING OFFICER (Mr. GRAHAM). The Senator from Louisiana is recognized.

Mr. BREAUX. Mr. President, as a new Member of the Senate, let me say this bill is like the legislation that I supported as a Member of the other body. The House passed that bill, which is identical to this one.

I, too, want to thank the distinguished chairman of the Senate Environment and Public Works Committee, the Senator from North Dakota [Mr. BURDICK], and also the Senator from Rhode Island [Mr. CHAFEE] for their consideration, help, and assistance to allow the junior Senator from Louisiana to be involved in developing this legislation.

I echo the comments of the Senator from Maine [Mr. MITCHELL], the distinguished chairman of the subcommittee, when he spoke of the priorities in assessing the limited amount of funds that we have as a nation. Clean water is also part of the national security of our country.

I ask the question, how much is clean water worth? How much is the knowledge that the water we drink out of a river or the water that we drink from a stream or from a lake does not contain toxic chemicals that are carcinogenic? I think that is also a part of the national security of the United States.

I take the limited time I have right now to point to merely one concern that I and, I know, the senior Senator from Louisiana [Mr. JOHNSTON] particularly have concerning some of the features of the bill before the Senate at this time. Language was added to

the Senate and the House bill last year that affected basically four companies who sought to discharge a particular product into the Mississippi River. The permit applications were pending for something like over a decade and no resolution to those permits from the Environmental Protection Agency had ever been resolved. Language was added to the bill which was also included in the bill before the Senate and has already been adopted by the House that seems to require that a permit shall be issued. It is the intent of this Senator at an appropriate time to offer a concurrent resolution which would clarify the intent of that language.

The concurrent resolution will point out in the language in the bill in section 306(c) that requires a permit to be issued within 180 days, that those permits must comply with applicable standards and procedures for the issuance of the best professional judgment permits under section 402(a)(1)(b) of the act. The intent of our concurrent resolution will be to point out clearly that section 306(c) of the bill does not in any way require the Administrator of EPA to permit the discharge of gypsum or gypsum waste into the Mississippi River; nor does it affect the authority of the State of Louisiana to deny or condition certification under section 401 of the act with respect to these particular permits; nor does that section alter the right of a party to challenge the permits using established administrative and judicial appeals.

I think, Mr. President, the real intent was to get some final resolution of these permits. It is inappropriate, I think everyone can agree, that when companies seek permits, the application should be dragged on for years and years and even decades without some final resolution to the permits—either grant the permits, deny the permits, or grant the permits with modification.

But do not kill the process by delay. That was the intent of the sections that were added to the bill in the last Congress which are carried over into this Congress and contained in this bill. I think the concurrent resolution which the chairman has allowed us to offer will clarify that particular intent of the section. I thank the distinguished members of the committee and we will proceed at the appropriate time.

The PRESIDING OFFICER (Mr. BREAUX). The Senator from Maine.

Mr. MITCHELL. Mr. President, earlier I gave a brief statement describing some of the key provisions in the bill. I indicated then that I would subsequently offer a detailed explanation of several additional provisions in the bill, and it is my intention to do that now.

I will, in the event other Senators desire to speak on this subject, yield during the course of this presentation.

[Mr. DASCHLE assumed the Chair.]

Mr. MITCHELL. I would like to address a number of the amendments to the act.

FUNDAMENTALLY DIFFERENT FACTORS

The bill provides for new authority for modifying control requirements for industrial facilities which are fundamentally different from other facilities in an industrial class. This provision is complicated and I would like to provide a detailed description of the provision and its objectives.

The Clean Water Act provides for the development of minimum, national, technology-based treatment requirements for industrial dischargers. These requirements address a range of industrial categories and include effluent guidelines applying to direct dischargers and pretreatment categorical standards applying to indirect dischargers.

The amendments provide the EPA Administrator with new authority to modify a minimum, national treatment requirement for an individual facility within an industry if the facility is found to be fundamentally different from other facilities within the industry on the basis of certain factors considered by the Administrator in establishing the guidelines or standards.

The new provision provides that a facility may be found to be fundamentally different based on factors identified in sections 304 (b) and (g). These factors include the age of equipment and facilities, the process employed, the engineering aspects of the types of control techniques, process changes, and other factors deemed appropriate by the Administrator.

The Clean Water Act currently provides for establishment of minimum, national technology-based requirements on an industrywide basis but does not allow modification of requirements on a plant-by-plant basis. The Administrator has been able to accommodate variation in an industry through development of different requirements for subcategories of an industry.

In addition, the Agency developed and implemented a procedure for establishing alternative treatment requirements for individual facilities based on a conclusion that the facility is fundamentally different from the industry. These regulations were recently upheld by the Supreme Court. While there is currently no basis for the regulations in the act, the conferees concluded that some expansion of the Administrator's authority in this area is an appropriate addition to the act.

This new provision provides a clearly defined and limited authority in the statute for modification of treatment requirements for individual facilities. The provision is intended to assist the Administrator in addressing variation in development and effective administration of the national effluent guidelines and standards.

The conferees intend, however, that the Administrator use the new authority in this section sparingly. Applications under this section should be assessed with the objective of accounting for unique situations encountered in implementing national, minimum treatment requirements. Unless the circumstances of a facility are unique, the Agency should accommodate fundamental differences among facilities through the establishment of subcategories within an effluent guideline. This section should not be used in place of complete definition and subcategorization of an industry.

The conferees recognize that this section will require the EPA Administrator to make difficult decisions with regard to the magnitude of differences among similar facilities within an industry. In exercising this judgment, the Administrator should place high priority on the principle that all industries within a category or subcategory are to meet national, minimum, treatment requirements. The authority of this section is intended only to provide the Administrator with the authority needed to implement this aspect of the statute effectively and should not be used to generally relax or retreat from national, minimum requirements for an industry.

This new provision places several important limits on this new authority. These limits concern consideration of costs to a facility and procedural and other limitations.

The bill specifically excludes consideration of costs as a basis for establishing a fundamental difference with regard to an individual facility. Section 304 of the Clean Water Act authorizes the EPA to consider the cost of achieving effluent reductions, in addition to other factors, in development of a guideline for an entire industry. The EPA needs to consider cost when developing a guideline for an industry in order to determine the best available technology for water pollution control which is economically achievable for an entire industry.

Individual facilities, however, may face costs which are higher than costs to the majority of other facilities in an industry. A facility might find that differences in costs cause it to be fundamentally different from other facilities and contend that these differences justify modified treatment requirements. For example, costs of labor, transport or materials might be presented as fundamentally different.

While a guideline is intended to account for economic impact on an entire industry, it is not intended to account for the economic impact on

each individual facility. The 1972 Clean Water Act conference report stressed this point, directing EPA to "make the determination of the economic impact of an effluent limitation on the basis of classes and categories of point sources, as distinguished from a plant-by-plant determination."

If a facility facing higher costs than the overall industry is allowed to reduce treatment levels below the minimum level, the degree of pollution control at a facility is linked to the economic efficiency of the facility, rather than the economic ability of the industry, and the principle of an industrywide minimum level of treatment loses it meaning.

Although the act does not and should not provide a mechanism to modify the requirements of an effluent guideline on the basis of fundamentally different costs at an individual facility, section 301(c) of the act provides for modification of requirements in a case where such requirements are beyond the economic capability of the owner. Section 301(c) does not allow the Administrator to modify treatment requirements based on a showing of fundamentally different costs to an individual facility, unless these costs are beyond the economic capability of the facility and, therefore, threaten its survival.

In addition, section 301(c) is subject to section 301(l), which prohibits the Administrator from modifying any requirement as it applies to a toxic pollutant. This provision assures that toxic pollutants will be controlled, regardless of the economic capability of the discharger. The new authority for treatment modifications based on fundamentally different factors contained in the reported bill is not subject to section 301(l).

This provision is not intended to prohibit the EPA from modifying treatment requirements in a case where a fundamental difference in an aspect of a facility which is eligible for consideration—for example, age of facility, process employed—would result in a reduction in costs to a facility.

When such an eligible factor is under review, the EPA may consider the costs specifically associated with that factor, but must be able to justify a finding of a fundamental difference primarily on the basis of a substantive and technical assessment of eligible factors. The EPA shall not replace a substantive and technical assessment of eligible factors with a shortened cost test designed to indicate a fundamental difference—for example, when the costs of an eligible factor at an individual facility are twice the costs at average facilities, the factor is fundamentally different.

The reported bill specifies several procedural requirements and other limitations governing applications for modifications under this section.

Section (n)(1)(B) provides that an application be based solely on information and supporting data submitted to the Administrator during the development or revision of a guideline or on information the applicant did not have a reasonable opportunity to submit during the rulemaking. The lack of a reasonable opportunity to submit information is based solely on a lack of actual or constructive notice of the rulemaking.

This provision will assure that effluent limitations and standards are as comprehensive as possible, and thereby reduce the need for applications under this subsection. This provision will also discourage withholding of information during the rulemaking process for subsequent use in an application for treatment modification under this subsection.

In addition, where the record is already closed and an applicant has new information to present bearing on the guideline or standard, the applicant continues to have the right to petition the Administrator to reopen the rulemaking and record and consider creation of a subcategory. The Administrator's disposition of such a petition is subject to judicial review under section 509(b) of the act.

Section (n)(1)(C) provides that the alternative requirement imposed on the applicant can be no less stringent than justified by the applicants' fundamental difference from the rest of the category or subcategory with respect to eligible factors.

Section (n)(1)(D) provides that any alternative requirement shall not result in a non-water-quality environmental impact which is markedly more adverse than the impact considered by the Administrator.

Section (n)(2) requires that an application under this section shall be submitted within 180 days after the publication of the initial guideline or standard. Section (n)(3) provides that an application shall be approved by final Agency action within 180 days after submission. For the purposes of this section, final Agency action means the administrative decision issued by the EPA, following public notice and comment, as appropriate and including a statement of the basis for the decision. Section (n)(4) states that the Administrator may allow the applicant to submit clarifications with regard to information submitted in an application prior to the 180 day decision deadline.

Section (n)(5) provides that an application for an alternative requirement based on fundamentally different factors which is pending on the date of enactment may be amended by the applicant within 180 days after such date of enactment. This provision is intended to allow applicants with pending applications developed under EPA regulations pertaining to fundamentally different factors to revise the applications to reflect the requirements of this new section of the statute.

Section 301(n)(6) provides that an application for an alternative requirement under this section shall not stay the facility's obligation to comply with the effluent limitation guideline or standard which is the subject of the application.

This provision is intended to prevent EPA or the State, or the POTW in the case of indirect discharge, from delaying issuance of the permit or pretreatment mechanism during the pendancy of an application. If an application for an alternative requirement is denied by the Administrator, the applicant must comply with the limitation or standard as established or revised. This section is subject to section 301(b) and 309 as to compliance dates.

This section shall apply to existing primary and secondary national effluent limitations and categorical pretreatment standards for industrial categories, such categories as may be identified in the future, and to any revisions of guidelines or standards for such categories.

The Administrator may not use the authority of this section to modify effluent standards issued pursuant to section 307(a)(2) of this act, the general prohibited discharge standard in 40 CFR 403.5, or other requirements implementing such standards.

The owner or operator of a facility has the burden of proving to the satisfaction of the Administrator that the facility is eligible for an alternative requirement under this section. The Administrator's decision to promulgate or deny an alternative effluent limitation or standard under this subsection shall be subject to judicial review pursuant to section 509(b)(1) of the act.

This new authority is intended to provide for modifications of requirements for conventional, nonconventional, and toxic pollutants. Consistent with this objective, section 301(l) of the act, which excludes toxic pollutants from modifications under this act, is amended to allow modifications under this section for toxic pollutants. This amendment to section 301(l) does not in any way weaken the application of the section to modifications under the act other than provided under this subsection (301(n)).

The Administrator may not delegate the authority provided by this subsection to any State. In addition, it is our intention that the authority of this section be exercised only by the Administrator or Assistant Administrator for Water, rather than regional or other officials. The Administrator shall obtain the concurrence of a State before approving any alternative requirements under this subsection.

All of these provisions are to be self-implementing and are to take effect upon enactment of the Clean Water

Act Amendments of 1985. The Administrator is encouraged to amend the appropriate regulations to make them consistent with these requirements; however, the failure of the Administrator to make such revisions will not affect the implementation of these provisions.

A related provision provides new authority for the EPA to collect fees for the processing of various modifications of permits and other requirements.

Substantial Federal resources are being devoted to processing application for modifications authorized by the Clean Water Act. Section 301(o) of the reported bill requires the Administrator to establish a system of fees to recover costs of reviewing and processing these applications. Applications, including resubmitted applications, are to be accompanied by an appropriate fee, as determined by the Administrator. The Administrator may develop a tiered or sliding scale fee structure so long as the aggregate amount of fees collected reflects the Federal resources actually expended in processing such applications.

Fees collected under this section shall be deposited into a special fund in the U.S. Treasury entitled "Water Permits and Other Services." Such funds are to be available for appropriation and to remain available until expended and are to be used to carry out the Agency activity for which the fee was charged. Creation of this special fund will assure that fees charged for processing of applications will be used to support water permit related activities, rather than other activities. The existence of this fund shall not be a basis for reductions in funding levels for related program activities.

In addition, the conference report agreed to last year provides that, in the case of three cane sugar processing mills on the Hamakua coast of Hawaii, the EPA may temporarily withdraw the applicable guideline at any time, issue a best professional judgment permit to affected facilities, and then reissue the guideline with an appropriate subcategory. This portion of the conference report expresses Congress' expectation that EPA will provide environmentally sound administrative relief to these facilities.

Section 306(c) of the bill applies to four fertilizer manufacturing plants located in Louisiana. After the passage of H.R. 1 we will be asked to pass a concurrent resolution clarifying and correcting the text of section 306(c). The intent of the provision, however, will remain the same. The Administrator is directed to issue permits for these plants under section 402(a)(1)(B) of the Clean Water Act. The plants are identified in subsection (c)(1) with reference to the Administrator's proposed action with respect to the plants, and the Administrator will have completed that proposed action before acting under section 402(a)(1)(B).

There are three potential types of discharge associated with fertilizer plants of this kind—storm water, cooling water, and gypsum. Section 306(c) does not require that a permit be issued for the discharge of gypsum into the navigable waters. Under this authority, EPA could issue a permit imposing limitations on the discharges of storm water and cooling water while prohibiting the discharge of gypsum altogether.

Section 306(c) does not change the standards or procedures used by the Administrator, or increase the discretion of the Administrator, in issuing permits under section 402(a)(1)(B) of the Clean Water Act. It does not mandate that a discharge of gypsum be allowed under any permit, nor does it in any way compel the State of Louisiana to affirmatively concur in the issuance of such permits. The State retains its authority to deny or condition certification under section 401 of the act for such permits, and the Federal permits lack force or effect in the absence of such certification and affirmative concurrence by the State.

It is not the intent of this provision in any way to encourage or sanction the issuance of permits by EPA which would provide for the discharge of gypsum waste into the Mississippi River.

NONPOINT SOURCE POLLUTION CONTROL

In using grant funds under this section for the implementation of approved programs or plans, States are not to provide assistance to individuals for construction of pollution control facilities unless such assistance is in the form of a demonstration program, as determined by the Administrator. State's may include other Federal assistance programs, including programs of the Department of Agriculture involving grant and loan assistance and cost sharing, in overall programs for control of nonpoint pollution.

States may use funds available in the new State revolving loan funds for the implementation of nonpoint programs developed under this section. Loan funds must be used in a manner consistent with all the provisions of title VI of this act.

For example, once a State has assured progress toward compliance with the deadline for construction of secondary treatment facilities, the State may make loans or provide otherwise eligible assistance to nonpoint pollution related projects.

Such loan or other assistance may be made to individuals or organizations, as well as muicipalities and other governmental units. For example, a State may provide a loan to a farmer to construct a manure storage facility if such facilities are called for in the approved State nonpoint pollution control program. A State might also provide assistance to a municipality to implement programs to control urban runoff.

STATE REVOLVING LOAN FUNDS

The provision provides that the Administrator and States may enter into capitalization grant agreements under this title.

States must agree to accept payments under a schedule to be developed jointly with the Administrator, must agree to provide a 20-percent match of Federal funds, and must agree to make binding commitments for assistance in an amount equal to 120 percent of the amount of the grant payment within 1 year. Moneys contributed by a State to match Federal capitalization grants under section 602(b)(2) are to be cash and not in-kind.

The schedule under which payments are to be made by the Administrator to the State shall be developed jointly by the State and the Administrator. Such schedule shall be based on the State intended use plan and shall provide that payments be made as expeditiously as possible, consistent with such plan. At a minimum, payments shall be made not later than the earlier of 8 quarters after the date funds were obligated by the State or 12 quarters after the date such funds were allotted to the States.

In addition, the State must agree to assure, as part of the intended use plan submitted annually, that all Federal and State funds provided to the SRF will be committed in an expeditions and timely manner. This provision reinforces the requirement that States make binding commitments for funds within 1 year of any given payment to the fund.

Subsection 602(b)(5) refers to all Federal funds, in the form of capitalization grants, and all other funds in the SRF as a result of those capitalization grants, including repayments of loans originating from those grants and State funds contributed as the required match for those grants, and funds deposited in the fund under 205(m).

The State must use these funds first to assure maintainence of progress toward compliance with the enforceable deadlines, goals, and requirements of this act, including the municipal compliance deadline of July 1, 1988, or are on enforceable schedules for compliance after that date.

Progress toward compliance with enforceable deadlines, goals and requirements of the act, in the case of treatment works that are not voluntarily on a schedule to achieve compliance, may be assured through a funding commitment or through establishment of an enforceable compliance schedule.

Thus, the requirement of subsection 602(b)(5) is met if treatment works in a State are on an enforceable schedule to achieve compliance with uniform secondary treatment requirements of the act, whether or not there is a commitment to fund such treatment works from a State revolving loan fund or with a grant under title II of this act.

Governors of each State shall make the determination of progress toward compliance required under this subsection and the Administrator shall oversee such determinations.

Once a State has met the requirement of subsection 602(b)(5) funds from the SRF may be used for any other treatment works as defined by section 212 of the act—subject to the restrictions of section 602(b)(6)—programs and projects identified under the Nonpoint Source Pollution Control Program—section 319—or programs and projects identified under the National Estuaries Program—section 320.

This provision is intended to allow States the flexibility to utilize funds from the SRF to support a variety of measrues that the State determines are needed to achieve water quality goals. States are free to fund a wide range of pollution control projects, other than municipal wastewater treatment works, once the requirement for assuring progress toward compliance with the 1988 compliance date is met.

Further, a State must demonstrate that any treatment works which is constructed in whole or in part prior to fiscal year 1995 with funds directly made available by capitalization grants under this title or section 205(m), will meet the requirements of the sections 201(b), 201(g)(1), 201(g)(2), 201(g)(3), 201(g)(5), 201(g)(6), 201(n)(1), 201(o), 204(a)(1), 204(a)(2), 204(b)(1), 204(d)(2), 211, 218, 511(c)(1) and 513.

This restriction on the use of Fedeal capitalization grant funds does not apply to funds contributed by the State in accord with section 602(b)(2), monies repaid to the fund, or other money. State Governors shall assure that the requirements of this subsection are met.

Section 201(g)(1) limits assistance to projects for secondary treatment or more stringent treatment, or any cost effective alternative thereto, new interceptors and appurtenances, and infiltration-in-flow correction. This subsection also provides that State Governors may reserve 20 percent of a State's allotment for projects which meet the definition of treatment works in section 212(2) but are otherwise not eligible for assistance under this subsection. This Governor's reserve is intended to apply to funds made available under this title.

Section 201(n)(1) provides that funds under section 205 may be used to address water quality problems due to discharges of combined stormwater and sanitary sewer overflows, which are not otherwise eligible, if such discharges are a major priority in a States. This provision is intended to apply to use of funds under title VI as well as section 205.

As noted above, the fund may be used to assist publicly owned treatment works as defined by section 212 of the act, the development and implementation of a nonpoint source management program established under section 319 and development and implementation of an estuary program under section 320. This provision is intended to provide a basis for funding of projects to control nonpoint pollution and pollution to estuaries conducted by municipalities, a State, other public organizations, or individuals. All fund management provisions of this title apply to such projects.

The definition of projects eligible for funding under the loan program includes publicly owned treatment works as defined by section 212 of the act. This definition includes planning and design as defined in 212(1), treatment works as defined in 212(2), and replacement as defined in 212(3). Each of these aspects of treatment works is eligible for assistance under this title.

Funds under this title may be used to make loans as provided under section 603(d), but are not to be used to provide direct grants. If as a result of audits under this section, the Administrator finds a consistent and substantial failure to repay loans, he may take corrective action as provided under this title.

This section provides that loan funds may be used to refinance debt obligations of municipalities for eligible projects, where such obligations were incurred after March 7, 1985. This provision is a very important element of the Loan Fund Program in that it allows municipalities and States to work out financing plans which will allow a community to proceed with financing and construction as soon as possible and to achieve water quality benefits as soon as possible. Based on this authority States may agree to participate in project financing at a later date. The requirement in subsection 603(g), providing that municipal wastewater treatment projects be included on State priority lists is not intended to prevent a State from providing such refinancing assistance.

Section 603(h) limits the authority of subsection 603(d)(2) by providing that funds may not be used to make direct loans to support the non-Federal share of a project receiving assistance under title II of this act.

This limitation on direct loan assistance does not include ancillary assistance to the municipality which results in a lowering of costs of the obligation, for example, guarantee of the local share obligation, insurance of the obligation, et cetera. Such indirect assistance to support the costs of non-Federal share shall only be available to municipalities which face severe financial constraints preventing a project from proceeding.

The provision provides for the allotment of funds to States, reservation of funds for planning, and the reallotment of unobligated funds. Funds reserved for water quality management planning under this provision are to be used by the State agency which conducts environmental programs, rather than an agency established to manage the financing of projects with funds provided under this title.

Funds available to States under section 205(g) for the management of construction grant programs under title II may be used to assist the development of revolving loan funds under this title.

MARINE BAYS AND ESTUARIES

Section 210 of the amendments provides for set-aside of a small part of the construction grant fund to support projects for prevention of pollution to marine bays and estuaries resulting from combined storm water and sanitary sewer overflows. It is the intention of the conferees that, for the purposes, of this section, the term "marine bays and estuaries" shall be defined consistent with the definition of estuarine zone in section 104(n)(4) of the act.

It is not the intention of the conferees that this set-aside be used for projects at the upper reaches of tidal influence of a river which eventually enters into an estuary.

OTHER FEDERAL ASSISTANCE

Section 202(f) of the act provides that assistance made available by the Farmers Home Administration may be used to provide the non-Federal share of a construction grant project under title II of the act. This provision states the policy of the conferees that such assistance in support of a local share is acceptable, and has been acceptable in the past. The adoption of the provision shall not be construed to imply that, prior to this action, such support for a local share was not acceptable or consistent with congressional intent and policy.

REGIONAL WATER QUALITY PLANNING

Another important amendment to the act provides that States are to pass through at least 40 percent of funds made available under section 205(j)(1) to support water quality management planning at the areawide and interstate level.

The provision was modified by the conferees to assure that a Governor, with the approval of the Administrator, could provide less than 40 percent of funds to such organizations if such funding would not significantly assist

in water quality management planning. The conferees do not intend to imply that funding for areawide organizations should be limited to 40 percent of funds under section 205(j)(1). It is not the intention of the conferees that the requirement for passthrough of 40 percent of funds to areawide agencies apply to section 205(j)(5) funding.

SECTION 301(i)

The amendments also provide a specific period of 180 days in which communities may apply for variances under section 301(i). The conferees intend that no application whatsoever may be made under section 301(i) after the 180-day period following enactment of the amendment. In addition, the amendment provides that communities which are on a compliance schedule are not eligible to apply for a variance under section 301(i) at any time.

This provision includes any community which is on a schedule established prior to enactment by a court order or an administrative order established by the EPA or a State agency. In addition, the Administrator has discretion in granting variances under section 301(i).

The conferees encourage the Administrator to use this discretion to deny applications for variances under section 301(i) where necessary to preserve the stable and effective implementation of the National Municipal Policy and related agency policies.

ADMINISTRATIVE PENALTIES

The amendments provide for new authority for the EPA to use administrative penalties in enforcement of the Clean Water Act. This provision will substantially increase the agency's authority to assure full enforcement of the act. The amendments provide that the EPA may use the administrative penalty authority in enforcement cases related to activities which do not have permits as required under section 404 of the act. It is the intention of the conferees that EPA use this authority to provide for full and aggressive enforcement of section 404.

It is also the intention of the conferees that the EPA and the Corps of Engineers develop a memorandum of understanding to provide for the efficient coordination of enforcement activities related to section 404. Such an MOU should be developed as soon as possible, but not later than 6 months after the date of enactment.

EPA has the authority to use administrative penalty authority prior to the development of such an MOU. In the event that the EPA and the ACE are not able to agree on an MOU, EPA retains the full authority to implement administrative penalty authority related to section 404 as provided in these amendments.

COMPLIANCE DATES

The amendments also provide new requirements for compliance with treatment requirements of the act. The conferees believe that these new dates are responsible and reasonable can be achieved in virtually all cases. In an unusual case where a date cannot be met despite the conscientious efforts by a facility, the conferees understand that the EPA is able to exercise its discretion with regard to enforcement and penalty authority.

In addition, it is the intention of the conferees that any action by a regulated industry to initiate litigation related to a control requirement which results in a delay in accomplishment of controls, is not a basis for the EPA to exercise its enforcement discretion.

Industries which choose to challenge pollution control regulations in court should not expect that the EPA will use its enforcement discretion and should expect that EPA will fully enforce requirements and compliance dates, regardless of court challenges.

Mr. President, in accordance with the previous unanimous consent I now yield to my colleague from Montana, the distinguished Senator BAUCUS, who as a member of the Committee on the Environment and Public Works played a key role in the development and enactment of this legislation last year.

Mr. BAUCUS. Mr. President, I thank the Senator from Maine. The Senator from Maine, who is now chairman of the Subcommittee on Environmental Pollution of the Committee on Environment and Public Works, has given yeoman leadership in this area. In fact, if it were not for the combined efforts and also those on the other side of the aisle, this legislation would not be before us today. I see Senator CHAFEE on the floor. The ranking minority member of the Subcommittee on Environmental Pollution of the Committee on Environment and Public Works, Senator STAFFORD, ranking member and former chairman of the committee is not here. Each of them deserve the thanks of the American people for all of the work they have done to bring this bill to the point where it is in the Senate and their help to secure its passage, and also to have the veto overridden in the event there is a veto.

Mr. President, it is fitting that H.R. 1, amendments to the Clean Water Act, is the first bill introduced and will be the first major piece of legislation acted upon by the Senate in the 100th Congress.

This legislation before us today does what the President asked for. It is fiscally responsible. It abandons any Federal role in funding the Nation's water cleanup program. The legislation has the strong support of the American public.

As recently as 5 years ago, the Federal Government contributed as much as 75 percent of the cost of the Construction Grants Program. On the other hand, the legislation before us today cuts current construction grant authorizations by more than half. The legislation, furthermore, totally phases out the Federal grants in 9 years.

After 1994, there would no longer be a Federal Sewage Treatment Construction Grant Program. The job of cleaning up the Nation's backlog of waste treatment will fall squarely on the shoulders of the States, as provided for in this bill.

Too often, Congress tends to focus on the public works provisions of the Clean Water Act and tends to forget that the Clean Water Act is an environmental law.

The Clean Water Act is first and foremost a pollution control law. Its purpose is not simply to address a sanitary engineering problem and create public works jobs—although we all realize it has been very effective in that regard.

The Clean Water Act, when developed in 1972, was based on two concepts and a compromise. A national goal was adopted calling for a twofold objective: To eliminate the discharge of pollutants, and maintain the biological integrity of our water. Then, as a compromise, an interim goal was added: To assure that water quality would at least support fish, shellfish, wildlife, body contact sports, and drinking water.

The first goal is as poignant and relevant today, as it was when it was adopted in 1972. We have made progress, but even the compromise goal euphemistically referred to as "fishable, swimmable" has not been fully achieved.

These goals are the real issues confronting us today. These are the goals for which the American public will hold us accountable. It is not a debate between $12 or $18 billion. It is a debate over what we want our lakes, rivers, and streams to be.

The problem of nonpoint source pollution was also recognized in 1985 by passage of the farm bill. Farm legislation, when fully implemented in 1995, will reduce sedimentation from cropland by as much as 80 percent.

The nonpoint pollution control program in the Clean Water Act will ensure action on the other sources of nonpoint pollution. Together the provisions go hand in glove. This legislation will provide the driving force to control water pollution from rangelands, forestlands, urban areas, and other sources of nonpoint pollution.

These two laws will provide the potential for significant improvement of our Nation's lakes, rivers, and streams. The nonpoint pollution control pro-

gram in the legislation is an important element in meeting the goals of the original Clean Water Act.

The benefits of a continued commitment to an adequately funded Construction Grants Program cannot be overemphasized. But in a rural State such as Montana and throughout the entire country, the greatest benefits from this legislation will come from the nonpoint program and other regulatory aspects of the legislation.

It is in the area of environmental policy where the administration-proposed legislation would do the most harm. The administration's nonpoint program amounts to no program at all. In fact, we cannot realistically expect any State to take money from the construction program to pay for a nonpoint program when we have cut construction in half and will eliminate it completely in 9 years.

The administration proposes to retreat from this step forward. The administration's bill would make a mandatory program permissive. It would then force a State to choose between addressing a serious nonpoint source pollution problem or assisting some community in the treatment of its sewage.

On the other hand, the legislation under consideration renews a commitment to address the problem of nonpoint source pollution. To meet this end, a commitment of monetary resources as well as policy is being made.

Mr. President, when the Federal Water Pollution Control Act was enacted into law, the Federal Government adopted a goal of making the lakes, rivers, and streams of the entire country fishable, and swimmable, and reducing discharges of pollutants to zero.

In the case of those rivers and streams which were degraded, the law required cleanup. In the case of those waters which were already high quality, the law required protection.

Congress and the Federal Government entered into a commitment to the American public—to both existing and future generations—that our lakes, rivers, and streams would be clean and pure.

Coming from a State where the largest natural freshwater lake west of the Mississippi River—Flathead Lake—is still drinkable, and numerous mountain streams are pure, the value of protecting water as a national resource is readily apparent.

The Clean Water Act amendments, which were passed unanimously in the last Congress by both the House of Representatives and the Senate, build on and continue this commitment.

A commitment to a continued Construction Grant Program will ensure support for the control of community sewage. The gradual phaseout of Federal grants for construction of municipal sewage treatment facilities, combined with the authorization of State-revolving loan funds, represents a balanced but modest approach to an enormous problem.

If anything, the EPA's own needs assessment shows that these amounts are inadequate to fulfill the Nation's needs. That is the EPA. The EPA's own survey for 1986 shows a need for $75 billion by the year 2000, a figure far in excess of the $18 billion in the legislation to be made available by the Federal Government. It is irresponsible to call this legislation a budget buster. I repeat, in view of EPA's own assessment, it is irresponsible to call this legislation a budget buster.

Sewage treatment will continue to play an extremely important role in the ongoing efforts to curb water pollution, but included with the legislation is a strong commitment to address the problems caused by nonpoint source pollution and the need for special attention to maintaining the quality of our Nation's lakes.

But the real value of this legislation is the new provision representing a renewed commitment to the cleanup of nonpoint sources of pollution and establishing a national policy that programs for the control of nonpoint sources of pollution be implemented. It is this provision and other policy changes embodied in this legislation that warrant the support of this body. For this reason, I believe this legislation deserves the support of every Member of this body.

The level of funding provided in the legislation will allow States to implement nonpoint source management programs. The problem of nonpoint source pollution is a national problem requiring a national solution.

Mr. President, I yield the floor.

Mr. MITCHELL. Mr. President, under the prior agreement, I yield to the Senator from Nevada.

The PRESIDING OFFICER. Without objection, the Senator from Nevada is recognized.

Mr. REID. Mr. President, I thank the Senator from Maine for yielding.

Mr. President, I rise in strong support of H.R. 1, the Water Quality Act of 1987. As has been pointed out, this legislation is identical to the Clean Water Act reauthorization legislation adopted last year by a unanimous vote of both Houses of Congress. Unfortunately, the President chose to veto this critical environmental legislation.

In brief, H.R. 1 authorizes $18 billion for grants and loans to help build local sewage treatment plants, and gradually shifts the responsibility for these programs to State and local governments. H.R. 1 also addresses the problems of toxic water pollution and nonpoint source pollution. Other provisions in the Water Quality Act of 1987 are aimed at improving water quality and restoring fish, wildlife, and economic and recreational opportunities in the Nation's bolstering U.S. efforts to comply with the 1978 Great Lakes Water Quality Agreement; and strengthening an existing program to improve water quality in lakes.

Not only is H.R. 1 supported by the House and the Senate, it enjoys strong support from environmental, industry, and State and local government organizations.

The goal of the 1972 Clean Water Act sought the eventual elimination of all pollution discharges into the Nation's rivers, lakes, and streams. Although this goal remains unmet, we have made considerable progress. In fact, the Truckee River in northern Nevada is a good example of a river that has benefited from this landmark legislation. By investing in the objectives set forth in H.R. 1, we can realize the goals of the 1972 Clean Water Act.

As a cosponsor of S. 1, an identical bill to H.R. 1, I urge my colleagues to give H.R. 1 the overwhelming support it deserves.

I appreciate the Senator from Maine yielding.

Mr. MITCHELL. I thank the Senator.

Mr. President, under the prior consent agreement I yield to the distinguished Senator from Tennessee who since entering the Senate has been one of the leaders in protecting the American environment.

The PRESIDING OFFICER. Without objection, the Senator from Tennessee is recognized.

Mr. SASSER. Mr. President, I thank the distinguished manager of the bill for his very gracious comments.

Mr. President, I am pleased that the 100th Congress begins with consideration of one of the most important pieces of legislation that we will consider—the Water Quality Act of 1987. And I am pleased to be an original cosponsor of this very, very important legislation. Given the paramount importance of clean water to the Nation, it is appropriate that the Water Quality Act of 1987 was the first piece of legislation introduced in the 100th Congress. It is my hope that this bill will be the first one passed by this Congress as well.

It is unfortunate that we are being forced to revisit this legislation. I was frankly surprised that the President chose to veto the Water Quality Act last November. The votes in both Houses reflected overwhelming support for the bill. The need for this bill was critical in cities and towns all across the United States. The President's veto of the Clean Water Act reauthorization, I am sorry to say, demonstrated a callous disregard for the health and safety needs of literally millions of Americans.

As a result of the President's veto, some $18 billion in grants for wastewater treatment facilities have

been delayed. This delay has jeopardized construction of essential sewage treatment facilities in municipalities throughout the country. Many of these cities are already under pressure from the Environmental Protection Agency to have their sewage treatment plants upgraded to secondary status by 1988. The delay caused by the administration's veto has only made it more likely that this deadline will not be reached.

In my native State of Tennessee alone, more than 53 towns and cities have been affected by the delay in passage of this bill. Because much of the $35 million slated in this bill for Tennessee sewage treatment facilities and water quality improvement programs has not been forthcoming, many of these municipalities are facing facility construction slowdowns or halts. Fortunately, those of us on the Appropriations Committee saw the wisdom of continuing to fund the Wastewater Treatment Facility Grant Program this fiscal year at $1.2 billion, in the event that this bill was not signed into law. While this has allowed some Tennessee towns, such as McMinnville, to move forward with the expansion and upgrade of their treatment plants, many other Tennessee towns have not been so fortunate.

Mr. President, funding for wastewater treatment facilities is only one of the many important features of this legislation. The bill contains new programs to identify and control toxic pollutants in rivers, lakes, and estuaries. I am particularly interested in the Clean Lakes Program set forth in the act. This Clean Lakes Program recognizes that there is presently no comprehensive analysis of the quality of lakes nationally. What we do know is that many of our lakes are becoming impaired and that we need to formulate a program to address this problem.

I have seen such problems first hand, Mr. President. Last year, I traveled to Kentucky Lake, in western Tennessee to examine reports I had received on deteriorating water quality. What I found on this journey was very disturbing. Mussel divers in the Kentucky Lake area reported harvests of mussels are dramatically down, in some cases by as much as 75 percent. Commercial fishermen showed me catfish which were literally decomposing from within. More and more fish caught in this area were not suitable for human consumption. This we fear is caused by the water quality present in this lake. These firsthand reports were echoed in panel discussions I chaired on the quality of water in Kentucky Lake.

It is clear that the drought problems we have recently experienced in the Southeast added to the problems in Kentucky Lake. It is equally clear that we do not yet know enough about the causes of the pollution in Kentucky Lake, nor about the damage from this pollution in this lake to come to a conclusion.

I have called on Federal, State, and local government bodies to work together in attacking the problems in Kentucky Lake. The Clean Lakes Program in this bill can play a critical role in this effort. Indeed, including Kentucky Lake in the Lake Water Quality Demonstration Program established under the Clean Lakes Program would go far in addressing the problems in this beautiful lake that is so vital to the commercial well-being of areas of my State and also Kentucky. It is my hope that the Administrator of the Environmental Protection Agency will work with us to see that this magnificent lake, known as Kentucky Lake, is given high priority under this demonstration program.

For this reason, Mr. President, and for many others, I, frankly, believe that it is very essential that we move swiftly on this important piece of legislation. The American people will have a right to expect that their water will be clean. The American people have a right to expect that their Government will act in such a way that the environment will be protected not just for this generation but for future generations.

So I am confident that my colleagues will once again give this legislation the resounding support that it is entitled to.

Mr. President, at this time I yield the floor.

The PRESIDING OFFICER. The Senator from Tennessee has yielded the floor.

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized.

Mr. CHAFEE. Mr. President, I have a chart which compares the three bills: the original Senate bill, the House bill, and the conference report. The reason that I would call them to the attention of this body is to better understand what took place in the conference. That, of course, is the bill that we have before us today.

Let me first just give the overall totals. The Senate bill which passed here originally—actually it passed on the June 13, 1985, which gives you some indication of how long we have been dealing with this clean water business, this legislation—had a total cost of $19.6 billion. That passed June 13, 1985. Along came the House with its bill, which it passed over there on July 23, 1985, the same year. That bill was not $19.6 billion, but that was $26.9 billion. That is what we went to conference with: the House bill being almost $26.9 billion, the Senate bill being about $19.6 billion.

So there is about a $7 billion difference.

The legislation that came back as a result of the conference, the bill we are considering here today, is $20.7 billion. In other words, we went up $1 billion in the Senate bill that we went into conference with, and the House came down $6.2 billion.

What happened to some of the measure?

Just to give you examples, and these are some of the special projects, these were the things that upset the administration, I believe rightfully so, and that we succeeded in eliminating.

Puget Sound, in for $1.2 billion in the House bill, zero in the Senate, and in the conference we came out with zero.

New York-New Jersey harbor, $40 million in the House bill, zero in the Senate, zero in the conference report.

San Francisco Bay, $18 million in the House bill, zero in the Senate, zero in the conference.

Newtown Creek, $300 million in the House bill, zero in the Senate, zero in the conference.

Naco, TX, $10 million in the House bill, zero in the Senate, zero in the conference.

Deer Island, Boston, $30 million in the House bill, zero in the Senate, zero in the conference.

Des Moines, $85 million in the House bill, zero in the Senate, and $50 million in the conference.

And so it goes.

I think the administration should be very grateful that we are able to beat down these amounts. Not only that, but the other key point that I would make, particularly to the administration, is that this legislation comes to an end. When we finish this in 1993, there are no more Federal appropriations for wastewater treatment facilities.

Mr. President, I ask unanimous consent that this document be printed in the RECORD at this point.

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

COMPARISON OF AUTHORIZATIONS IN S. 1 (CONF), H.R. 8 (7/23/85), S. 1128 (6/13/85)

Major purpose	S. 1 (Conf)	H.R. 8 (7/23/85)	S. 1128 (6/13/85)
Construction Grants and Revolving Loan Funds.	$18 billion	$21 billion	$18 billion.
Sec. 104 grants	136m	160m	88m.
State 106 grants	375m	375m	300m.
Chesapeake Bay	65m	65m	65m.
Great Lakes	55m	61m	50m.
Areawide Planning	250m?	250m	
Clean Lakes	220m	425m	150m.
Nonpoint Source	400m	750m	300m.
National Estuary Program	60m	75m	60m.
General Authorization	675m	550m	640m.
Sludge Studies	5m	15m	
Alternative Water Supply		456m	
Groundwater Program		40m	
Groundwater Grants		510m	
Puget Sound		1,261m?	
NY/NJ Harbor		40m	
Narragansett Bay		9m	
San Francisco Bay		18m	
Newtown Creek		300m	
Naco Texas		10m	
Deer Island Boston		30m	

COMPARISON OF AUTHORIZATIONS IN S. 1 (CONF), H.R. 8 (7/23/85), S. 1128 (6/13/85)—Continued

Major purpose	S. 1 (Conf)	H.R. 8 (7/23/85)	S. 1128 (6/13/85)
Boston Harbor	100m	100m	
Des Moines	50m	85m	
Oakwood Beach, NY	7m	9m	
San Diego/Tijuana (estimate)	300m	300m	
San Diego Reclamation	2m	3m	
Totals	$20,700m	$26,897m	$19,653m.

Mr. CHAFEE. I thank the Chair.

Mr. STAFFORD addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont.

Mr STAFFORD. Mr. President, I rise in support to H.R. 1. It represents over 4 years hard work by both bodies of the Congress. It is the same bill that was passed unanimously by both Houses last fall. Unfortunately, the President pocket vetoed that bill. We are here today to reaffirm our position in favor of environmental protection by passing the bill again.

As my colleagues already know, the House of Respresentatives passed this bill last week by a vote of 406 to 8. It is my hope and expectation that the Senate will pass this bill by an equivalent margin.

When we started the long process of reauthorization 4 years ago, we discovered that there was a compelling need to make improvements in the Clean Water Act. The bill before us accomplishes that. It narrows some troubling loopholes, tightens controls on toxic pollutants, and establishes a much needed program to manage runoff or nonpoint source pollution.

Just as importantly, it provides for an orderly phaseout of Federal subsidies for construction of sewage treatment plants. This was a difficult issue, as my colleagues will recall, but gradually we succeeded in building a political concensus for phasing out the grants program amd providing an orderly transition to State revolving loan funds.

I want to remind my colleagues that the Congress gave full consideration to the President's initial proposal to phase the program our more quickly. After due consideration, the Congress decided that $18 billion—divided between traditional grants and capitalization grants for the State revolving loan funds—is the minimum amount needed.

Indeed, Mr. President, many have said on appropriate scientific evidence that the needs of the country still run something on the order of $100 billion.

So as has been said before, the amount provided in this bill is the bare minimum that can move us ahead for fishable, swimmable waters in this country over the next several years.

My colleagues are well aware that the administration wants to knock this figure down by an additional $6 billion. I would say to my colleagues that we already have reduced this program as far and as quickly as we prudently can. If an amendment is offered to reduce the program further, this Senator will oppose it vigorously. We must keep faith with the American people and with the various parties with whom we forged a political concensus—the States, cities and towns, environmental organizations, and others.

Mr. President, this is a good bill, and it is a fair bill. It's contents and its intent are well explained in the conference report and floor statements at the end of the last Congress. This Senator is proud to have been a participant in its development. Unanimous votes are rare, but this bill passed both the House and the Senate 3 months ago without a single dissenting vote. This is a testment to the widespread political support that this bill enjoys.

Mr. President, in closing I would like to make a comment about congressional intent behind passage of this law. As has been noted, this bill is the same as the bill placed before the President last year. Therefore, the statement of managers on that bill, which is found in Report No. 99-1004, contains the primary legislative history on this bill. That statement of managers, as explained by conferees on the floor of the House and Senate last October, should be viewed by courts as the most authoritative statement of congressional intent.

Mr. President a vote in favor of this bill is a vote for the environment. This Senator and his colleagues who developed it, urges his colleagues earnestly to ratify their previous vote and again support this bill.

Mr. President, I yield the floor.

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Maine.

Mr. MITCHELL. Mr. President, I commend the Senator from Vermont for his statement. I would simply like to say to the Members of the Senate and to the American people that for the previous 6 years Senator STAFFORD served as chairman of the Senate Committee on Environment and Public Works. He chaired that committee as fairly, as evenhandedly, and as effectively as was humanly possible, and it is due largely to his leadership and his example that the committee, the Senate, and the Congress were able to enact so much landmark environmental law, particularly in the closing days of the recent session.

In behalf of all of the members of the committee, and more importantly all of the American people, who benefit from his leadership, I want to thank and commend the distinguished Senator, the former chairman of the committee.

Mr. STAFFORD. Mr. President, if the Senator will yield, I simply want to express my appreciation for those very kind words and to say that without his leadership on his side of the aisle and his hard work on the committee generally we would not have enjoyed the success we did. I thoroughly enjoyed being chairman of the committee in those years and I know that the committee now, with the leadership of the Senator from Maine, will have further notable accomplishments.

Mr. MITCHELL. I thank the Senator.

Mr. LAUTENBERG. I would like to address an issue which has come up recently in the municipality of Edgewater in my home State of New Jersey.

Edgewater is planning to construct a facility to provide secondary treatment of sewage. The community developed facility plans and designs, but was not ranked sufficiently high on the State priority list to receive Federal funding in a timely manner.

In an effort to construct the plant as quickly as possible, the community worked with private firms to design and construct the facility. After the community entered into a contract for construction of a facility, they learned that Federal funding could be available after all.

I am concerned that, in order to proceed with Federal grant assistance, the community may be forced to abandon the work completed to date under the private agreements.

Would the Senator agree that, to the extent possible under applicable regulations, the EPA should be encouraged to avoid duplication of this work?

Mr. MITCHELL. Yes, I agree with the Senator. To the extent regulations allow, the EPA should be flexible in allowing the community to make use of this work.

Mr. LAUTENBERG. On a related point, I am concerned that the enactment of section 204 of the Clean Water Act amendments before us today may preclude the community from pursuing resolution of difference of interpretation of various Federal procurement and project management regulations. Is it the Senator's view that enactment of section 204 would necessarily prevent the community from challenging these regulations?

Mr. MITCHELL. I do not believe that section 204 should in any way prevent the community from challenging the existing regulations in question.

Mr. LAUTENBERG. I thank the Senator for his thoughts on this issue. I hope he will work with me in resolving any further issues that may arise relating to this project.

Mr. MITCHELL. I shall be happy to do whatever I can to assist the Senator in this effort.

Mr. GRAHAM. Mr. President, while I realize the urgency in approving the Clean Water Act without amendments, I would like to emphasize the need for Lake Okeechobee to be included as a priority demonstration project under the Clean Lakes Program. This Florida lake, which is the second largest freshwater lake in the United States and which feeds the Everglades, is dangerously close to eutrophication and is indeed worthy of priority designation.

Mr. MITCHELL. Mr. President, I realize the environmental significance of Lake Okeechobee and the serious nature of the threat posed to the Lake by pollutants. Given the condition of this lake, inclusion is consistent with the intent of last year's conferees and we would direct the agency to include Lake Okeechobee as a priority demonstration project under the Clean Lakes Program.

Mr. GRAHAM. As the Senator from Maine is aware, I would have offered as an amendment the inclusion of Lake Okeechobee; however, given the need to avoid any amendments to the bill, I will accept this assurance based on the conferee's intent. I thank the Senator.

Mr. BAUCUS. Included within the legislation is an authorization for a comprehensive water quality investigation of the Clark Fork/Lake Pend Oreille system in Montana. The purpose of this study is to identify sources of pollution and to enhance the water quality of this lake and river basin. Lake Pend Oreille is the largest lake in Idaho whose waters drain approximately 22,000 square miles.

The Clark Fork River and Lake Pend Oreille are primary environmental features of western Montana and northern Idaho. The river and lake is an outstanding cultural and economic resource for the entire region.

Nutrient contamination and sedimentation from point and nonpoint sources of pollution are believed to be responsible for algae blooms, patches of floating scum and foam, and other signs of pollution in the lower rivers, reservoirs, and Lake Pend Oreille. Toxic mine runoff flowing into both tributaries and the mainstream have resulted in the designation of four Superfund sites along the river. As part of the remedial investigation being conducted under the authority of Superfund for the Silver Bow Creek site along a tributary in the upper Clark Fork River, the Environmental Protection Agency is investigating toxic contamination along approximately 60 miles of the river. Moving quickly to undertake this study will provide for a coordinated basinwide effort.

Mr. SYMMS. Mr. BAUCUS and I sponsored this amendment in recognition of the importance of this lake and river resource to the entire region. Tourism and recreation is the second largest and fastest growing industry in northern Idaho. This tourism is heavily dependent on the quality of Lake Pend Oreille.

Public concern for the protection and clean-up of the Clark Fork River and Lake Pend Oreille is broad-based and widespread in both Idaho and Montana. Recent events, including the discharge permit controversy at the Frenchtown Pulp Mill, have focused public attention on water quality degradation and a pressing need for a basinwide approach to water quality research and management.

Mr. BAUCUS. When this amendment was offered, we did not know what this study would cost; therefore, no specific authorization numbers were included in the legislation. Recently the State of Montana and the U.S. Geological Survey submitted a proposal to the Environmental Protection Agency to conduct intensive water quality investigations on the Clark Fork and Lake Pend Oreille. The State of Montana proposal for an assessment of nutrient pollution and euthrophication would require $500,000 over a 3-year period. Currently little reliable information exists to provide for the overall management of the lake and river. This portion of the study would benefit both Montana and Idaho.

Mr. SYMMS. The U.S. Geological Survey has developed a proposal for a detailed eutrophication study of Lake Pend Oreille which would require $800,000 over a 4-year period. This study, when completed, would provide a sound basis for resource decision in Montana and Idaho in order to protect the lake. It is important that both aspects of the study proceed together since they are meant to be coordinated.

Mr. MITCHELL. It is the intention of the conferees that this study be funded by EPA out of programs authorized by this legislation and any other appropriate sources of funds available to the Agency.

Mr. STAFFORD. Mr. MITCHELL is correct in his explanation of the committee's intention. It is my understanding that the Clark Fork River and Lake Pend Oreille are degraded by point and nonpoint discharges into the water. By including a specific requirement for a Clark Fork/Lake Pend Oreille study, the committee has recognized the importance of a coordinated effort to undertake this study.

Mr. BAUCUS. I thank Mr. MITCHELL and Mr. STAFFORD for their response. Much of the Clark Fork River drainage is comprised of public lands, largely part of the U.S. forest system. The U.S. Forest Service and the State of Montana have entered into a memorandum of understanding concerning the control of non-point source pollution. While the legislation requires the Environmental Protection Agency to undertake the study, am I correct in stating that it is the conferees' intention that the Forest Service fully participate in the study?

Mr. MITCHELL. Mr. BAUCUS is correct.

Mr. BAUCUS. The Upper Clark Fork River is the site of a Superfund site at Silver Bow Creek, a site at the old Anaconda smelter and at Milltown Dam just outside of Missoula. The Environmental Protection Agency is currently undertaking a remedial investigation and feasibility study of these sites. The toxic waste problem has affected a large stretch of the river. There is an opportunity to coordinate the Clark Fork River/Lake Pend Oreille study with the Superfund investigations of the river. A coordinated approach which would not delay the ongoing Superfund effort would be the most cost-effective way to address the problem and would also ensure a truly comprehensive assessment of the river.

Mr. SYMMS. Mr. BAUCUS raises an important point. All pollutants which enter the river upstream of Lake Pend Oreille have a potential to impact the lake. The importance of Lake Pend Oreille to north Idaho cannot be emphasized enough. It appears to me to be cost effective and prudent to undertake a coordinated comprehensive assessment of the basin.

Mr. MITCHELL. Both Mr. BAUCUS and Mr. SYMMS raise important points. While this legislation before us today deals with amendments to the Clean Water Act, it makes good sense to coordinate efforts undertaken under this Act with activities undertaken under other environmental statutes. These programs should be coordinated to the maximum extent possible.

Mr. BAUCUS. I thank Mr. MITCHELL and Mr. STAFFORD for their assistance.

Mr. SYMMS. I join with Mr. BAUCUS in thanking Mr. MITCHELL and Mr. STAFFORD.

Mr. DURENBERGER. Mr. President, we are today considering the Water Quality Act of 1987. This is a bill to continue and expand the Nation's Clean Water Act which has since 1972 provided environmental protection for the quality of our lakes, streams, rivers, and estuaries.

This reauthorization of the Clean Water Act has been developed over many years and reflects a blending and compromise of all views including those heard in both Houses, those expressed by members of both parties, views of the Congress and the administration, views of industry and the environmental community.

This legislation was considered by the Congress just before adjournment last year. It was adopted by the Senate 96 to 0. It was also adopted unanimously by the House of Representatives. Around here that is an almost

unprecedented level of support for a major piece of legislation like this. The bill we introduce today is that same bill.

The bill adopted by the 99th Congress failed enactment due to a Presidential pocket veto. That was in my view a most unfortunate decision on the part of the President and his advisers. This legislation already includes much to accommodate the views, both budgetary and of a substantive nature, that were put forth by the administration and its representatives during the legislative process.

Our difference with the President comes down to a matter of budget priorities. I would say to the President that the Construction Grants Program has already made its contribution to deficit reduction. In 1981 when this administration came to office grants to State and local governments to build sewage treatment projects were approximately $5 billion per year. The administration insisted on a greatly reduced program and one that was restructured to eliminate many of the then eligible activities. And after a year of tough debate, a compromise was reached between the Congress and the administration to reduce and restructure the Construction Grants Program. For its part the Congress understood that compromise to include a 10-year commitment to fund the Construction Grants Program at $2.4 billion annually. And that is precisely the level of funding this bill provides.

This bill fulfills the promises made in 1981 when the Construction Grants Program was last reauthorized. One need not rely on my testimony as to the agreement reached between the Congress and the administration back in 1981. The record is replete with references to that commitment. For instance in a committee hearing on the 1985 budget proposal, Mr. William Ruckelshaus, then Administrator of the Environmental Protection Agency, described that agreement in these terms:

> There is an understanding that there is an agreement with the Administration and with the Congress that for 10 years this level of funding, at least, is a commitment. If you will note the difference between what we submitted to the President in terms of our budget and what we are now requesting is somewhat less. We went down to $2.37 billion, and it went back up to $2.4 billion as a result of that commitment. That was something that the Administration put back into our budget over our submission.

Mr. President, there you have Bill Ruckelshaus proposing a modest cut in the Construction Grants Program and somebody at OMB telling him to take it back up to $2.4 billion because the administration had committed to that level for 10 years. That's a pretty good indication that a clear and solid pledge for funding had been made as a part of the 1981 reauthorization. Mr. Ruckelshaus is no longer at EPA, of course. And there have also been changes to OMB. But changes in advisers shouldn't be cause for abandoning commitments.

So it was unfortunate that this bill failed enactment last year. And I urge the President of the United States, in light of the history of this program, to reconsider his decision to withhold his signature from this bill. It is a good bill. It has broad support. It continues a necessary and successful program of the Federal Government. It is a tribute to the two members of our party, Senator CHAFEE and Senator STAFFORD, who had such a large role in bringing it to unanimous approval in both Houses of the last Congress.

We are here today largely as a result of the tireless work of the distinguished Senator from Rhode Island [Mr. CHAFEE], who was chairman of the Environmental Pollution Subcommittee in the 99th Congress. Along with Senator MITCHELL, the previous ranking member of the subcommittee, and Senator STAFFORD, the previous chairman of our full committee, the Senator from Rhode Island has spent long hours in hearings, markup, and conference sessions and floor debate to bring this bill to this point in the legislative process. This is a major piece of legislation. It has been pending before the Congress for several years. And over that whole period, Senator CHAFEE, has been a consistent champion of the Nation's water resources. He has shown no inclination to compromise the goals of the Clean Water Act just to get a bill and today his dedication to those principles is rewarded wth an excellent piece of legislation that adds much to a law which has already been quite effective in improving the quality of the Nation's surface waters.

Before turning to the substance of this legislation, let me just mention the role of two of my fellow Minnesotans who serve in the other body and who were instrumental in developing this legislation. Both Representative STANGELAND and Representative OBERSTAR from Minnesota serve on the Water Resources Subcommittee of the House and were active members of the conference on this legislation. All of us from Minnesota are proud of the contribution they have made to this bill.

The principal feature of this bill is a reauthorization of the Municipal Wastewater Treatment Construction Grants Program. Title II of the Clean Water Act has provided more than $40 billion to the cities of our country to build sewage treatment systems over the past decade and one-half. We add another $18 billion to that commitment with the enactment of this bill. But we also begin the process of phasing out the Construction Grants Program. During the phase down period, States will convert Federal grants into revolving loan programs so that Federal dollars can be recycled and will continue to protect the Nation's waters well into the future.

One controversial aspect of this legislation was the allocation formula for the Construction Grants Program. In June 1985, when the Senate was considering this bill for the first time, I felt compelled to put together a coalition of Members representing the Great Lakes States to protest the allocation formula that was included in the bill as reported by the Environment Committee.

The formula was grossly unfair to the Great Lakes States and would have threatened our efforts through the water quality agreement of 1978, an international treaty with our closest friend in the community of nations, Canada, to restore and maintain the quality of the waters of this international treasure. I will have further comments on the Great Lakes at a later point in this statement, but for now let me simply say that I am very happy to tell the Senate today that the construction grants allocation formula in this bill is fair to the Great Lakes States.

There are several other provisions of this legislation which should be mentioned in any thorough summary of its features; the Clean Lakes Program is reauthorized and extended to problems of acid mitigation for lakes damaged by acid rain; the bill contains a provision prohibiting backsliding from effluent limitations in existing permits; there is a new estuary program and a program to further the efforts to clean up the Chesapeake Bay; and we have established a new role for Indian tribes in achieving the goals and requirements of the Clean Water Act.

There are three major provisions of the legislation relating to nonprofit sources of pollution, stormwater discharges and the Great Lakes which I will discuss at length at a later point in the debate. Before doing so, let me, if I may Mr. President, make brief comment on the antibacksliding provision of this legislation. The purpose of the antibacksliding amendment is to assure that we keep the improvements in water quality that have already been accomplished under the act. There are exceptions to the antibacksliding requirement, both for permits based on best practicable judgments and those based on water quality standards. But even with the exceptions, the intent and effect of the legislation is clear. Except in extraordinary circumstances those improvements in water quality which have been achieved as a result of permits issued under the Clean Water Act will be maintained and other factors including improvements in water quality due to additional efforts under the act, the promulgation of different and less

stringent effluent guidelines, or other unrelated cases, cannot be used as a justification to shutdown pollution control technology that is in place and operating to meet effluent limitations in existing permits.

NONPOINT SOURCE POLLUTION

The legislation we are reporting today establishes a new program under the Clean Water Act to develop management programs to control nonpoint sources of pollution.

The new section 319 of the act will require each State, individually or in combination with adjoining States, to submit a proposed nonpoint source pollution management program to the Administrator of the Environmental Protection Agency within 18 months of enactment of this legislation. These State programs will have seven principal elements.

First, they will identify waters within each State which are not expected to attain water quality standards or the goals of the Clean Water Act without control of nonpoint sources of pollution.

Second, the State programs will designate categories, subcategories, or particular nonpoint sources that contribute significant pollution to those waters.

Third, the State programs will identify best management practices, so called BMP's which will be undertaken to reduce pollution in each category or subcategory taking into account the impact of the proposed practice on ground water quality.

Fourth, the programs will include nonregulatory or regulatory measures for enforcement, technical and financial assistance, education, training, technology transfer, or demonstration projects to assist in the development and implementation of BMP's.

Fifth, the program will include a schedule containing annual milestones for utilization of the measures identified and implementation of the BMP's identified at the earliest practicable date.

Sixth, the program will contain assurances that existing State laws are adequate to carry out the proposed program or contain a stated intent to seek additional needed authority.

And finally, the State programs will identify Federal financial assistance programs and Federal development projects to be reviewed by the State for their consistency with its proposed nonpoint management program.

The provision that adjoining States may develop proposed programs together is intended to promote cooperation between States. Water quality problems may result from transboundary delivery of pollutions that are not sufficient to cause identification of the water body for controls in the upstream State, but which nonetheless contribute substantially to water quality problems in the downstream State. Until those upstream sources of nonpoint pollution are brought under control, the nonpoint source pollution problem in the downstream State may not be effectively resolved, as no measure of control applied in the downstream State will affect the pollution in the upstream State. In such case, the upstream State may have little incentive to incur program costs that will result in water quality benefits primarily to the downstream State. The Administrator is given the authority to provide extra funding for such interstate cooperative efforts under the provisions of the Water Quality Act of 1987.

A joint cooperative management program may also be appropriate when the affected water body is shared by more than one State, for instance, an estuary or lake or river that forms the boundary between two or more States.

In the conference on this legislation last year, the Senate agreed to a House provision which provides for convening an interstate management conference when nonpoint pollution in one State causes water quality problems in another. Such a conference can be convened at the request of a State or by the Administrator acting on information which is available. If the conference reaches any agreement with respect to reducing nonpoint pollution in the upstream State, the program of that State shall be modified to reflect the provisions of the agreement.

This legislation requires each State to identify those waters within its boundaries which, after implementation of point source controls, will not attain or maintain water quality standards or the goals and requirements in the Clean Water Act without controlling nonpoint sources of pollution. The State need not demonstrate that the nonpoint sources of pollution are the sole cause for the water quality standards not being attained or maintained. The fact that the standards are not likely to be attained or maintained under existing conditions in the reasonably near future, and that there are loadings of pollutants from nonpoint sources of pollution that can reasonably be expected to be contributing to the water quality problems, will provide sufficient reason for a State to identify such water under this program. In identifying these waters, the State should not only focus on the immediately adjacent waters to the nonpoint sources, but also consider downstream segments, lakes, and other water bodies where such pollutants may accumulate and cause water degradation.

The reference to the water quality standards and to the goals and requirements of the Clean Water Act arises from the fact that not all water quality standards yet reflect the act's goals and requirements. In such cases, identification and control of nonpoint sources can contribute to improvement in water quality and upgrading of water quality standards.

In reference to specific nonpoint sources under section 319 the term "significant" is inserted to exclude trivial sources of pollutants or sources of pollutants which are not related to the water quality programs identified by the State program. The term "categories" in this subsection could include sources such as cropland, rangeland, pastureland, forestland, construction sites, industrial sites, mines, residential areas, streets, roads, highways, other developed land and wild areas. Within each of these categories, subcategories can be defined on the basis of characteristics such as geographical location, type of activity, size of facility, topography, and other factors. The State has broad discretion to establish categories and subcategories that are relevant and appropriate for the types of nonpoint source pollution that the State identifies and the BMP's will implement to control them. However, the categorization must be sufficiently comprehensive to include all significant sources.

Particular nonpoint sources as referenced in this section could be identified when they, in and of themselves, are significant contributors of pollutants, or in some way are sufficiently unique that they cannot reasonably be included in one of the categories or subcategories.

The term, "best management practices," is left undefined in this bill because of a concern that any definition would limit the States' flexibility and perhaps undercut existing programs in which best management practices have been identified, including conservation tillage, grassed waterways, cover crops, undisturbed field perimeters near waterways, and terracing. The selection of the appropriate BMP's in a particular instance would depend upon soil type, topography, desired crop, and other factors.

Best management practices have also been identified for reducing runoff from urban areas—including storm water containment structures—construction areas—including erosion barriers such as straw bales and dikes—silviculture areas—including careful road placement, culverting, grassing of abandoned roads and skid trails—and grazing lands—including herd and vegetation management.

States are required to consider the impact of management practices on ground water quality. Because of the intimate hydrologic relationship that often exists between surface and ground water, it is possible that measures taken to reduce runoff of surface water containing contaminants may increase transport of these contami-

nants to ground water. The State should be aware of this possibility when defining best management practices especially in aquifer recharge areas.

Mr. President, this legislation allows the States great flexibility to design management programs containing regulatory or nonregulatory components, or a mixture of the two. The list of possible program elements is not intended to be exclusive. It is expected that States will differ in the program strategies they adopt. However, a State program must have a clear purpose which is to achieve implementation of best management practices by the identified sources as soon as practicable so as to reduce nonpoint pollutant loadings and improve water quality within that State.

The State is expected to demonstrate that its management program will provide reasonable assurance that appropriate control measures will actually be adopted by the categories, subcategories and specific resources identified in the State's program. Further, the State is required to commit itself to a schedule containing milestones for implementation of BMP's by such source. This is a requirement that the State take responsibility for the effectiveness of its program in terms of implementing the best management practices by sources, as distinct from merely committing to carry out its identified program activities. The Administrator, in awarding subsequent program grants must consider the State's record in meeting these commitments and determine that the State is satisfactorily implementing its program.

Milestones for both program implementation and the implementation of best management practices by sources must be established to provide for implementation at the earliest practicable date. This requirement reflects the importance of nonpoint source pollution problem and is intended to demonstrate congressional intent that BMP's be implemented expeditiously. Consistent with this general requirement, States may establish different milestones for different categories of sources. No single date or statutory schedule is included in order to allow the State to take account of variations in the number and types of sources and pollutant reductions. Similarly, different States may commit to different schedules based on characteristics of the State's program.

The bill also provides that the States will identify Federal financial assistance programs and Federal development projects for which the State will review individual assistance applications and development projects for their effect on water quality to determine if they are consistent with the State's nonpoint source pollution management program.

This subsection is based on the provisions of Executive Order 12372. This Executive order, issued by President Reagan, replaces OMB Circular A-95 and establishes procedures by which State authorities may comment upon applications for Federal assistance and Federal development projects to assure that the federally supported activities and projects are consistent with State needs and objectives. This bill assures that the provisions of the Executive order, as in effect on September 17, 1983, will be applicable to the State's implementation of this review process, with respect to its nonpoint source management program, regardless of any subsequent revisions of the Executive order. The bill also allows States to designate any Federal assistance program or development project listed in the most recent Catalog of Federal Domestic Assistance, rather than just those programs and projects subject to the current Executive Order 12372. The purpose of this provision is to allow the State's to review any Federal program or project that the State determines needs to be reviewed for consistency with its nonpoint management program. This provision builds upon established procedures for State review of Federal activities. It will provide the States with an important tool to assure that proposed Federal assistance and development projects are implemented in a manner which the State deems consistent with its nonpoint source pollution management program.

In developing its program the States may use information developed under other pertinent sections of the Clean Water Act in the development of their programs, particularly the section 208(b) waste treatment management plans, if the State determines those plans to be consistent with the goals and objectives of this new section. States may also cooperate with local agencies or organizations in the development and implementation of their programs. This would include agencies receiving funding under section 205(j) of the Clean Water Act and soil conservation districts.

In many cases, information and institutional relationships developed under the section 208 planning process will be relevant to, and consistent with, the requirements and objectives of this bill. Many States relied upon regional organizations and the section 208 planning process to gather needed data about nonpoint source pollution and to promote local and regional cooperative pollution control efforts. The States are encouraged to build upon these program elements in constructing the program required by this bill. However, the bill does not require the use of section 208 plans or local agencies and organizations because some State programs have evolved well beyond the section 208 planning efforts, and also because some States gave inadequate or inappropriate attention to nonpoint sources in their 208 plans. In any case, the State has the flexibility to select the program elements that will most effectively fulfill the requirements and objectives of this bill.

The States are authorized to develop their programs on a watershed-by-watershed basis as is appropriate in a program that focuses on water bodies or segments which are not meeting water quality standards. However, this provision should not result in fragmented programs farmed out to local agencies or organizations. We are establishing State programs in this section and expect central, policy-setting direction from the States in implementing this program. In that regard, Mr. President, I would highlight a significant difference between the House and Senate bills from the last Congress. The House bill would have allowed the States to develop narrow programs for particular watersheds or categories of nonpoint pollution and satisfy the requirements of the legislation. The Senate bill included a broader scope including all water bodies within a State exhibiting nonpoint problems and all categories and subcategories contributing to those problems. This bill adopts the Senate approach.

As with any cooperative Federal-State program, this legislation includes procedures for review and approval of the State program. The Administrator shall decide whether to approve or disapprove a State program within a 6-month period after it is received. If the Administrator determines that it does not comply with the requirements of this act, he must notify the State of any modifications necessary to obtain approval. The State is then given 3 additional months to submit a revised program, to be approved or disapproved by the Administrator. If the Administrator determines that a State management program meets certain requirements he will approve the program.

If the Administrator fails either to approve or request modification of a submitted State program within 6 months of receipt, the program is deemed to be approved. Likewise, if the Administrator fails to approve or disapprove a program revised at his request within 3 months of receipt, such a revised program is deemed to be approved. This provision is intended to assure that implementation of programs to control nonpoint sources of pollution are not delayed because of inaction on the part of the Administrator.

In determining whether the proposed program meets the requirements and objectives of the Clean Water Act, the Administrator should

take into account any public comments he had received, including those of downstream States that may be affected by the program. The Administrator's review should involve considerably more than a checklist of required program elements. Under this legislation, the Administrator must review submitted programs in light of the goals of the Clean Water Act and the purpose of this new section which is to achieve reduction of nonpoint source pollutant loadings by the implementation of best management practices by sources and to do so at the earliest practicable date. Before approving the program and awarding Federal grants to support its implementation, the Administrator must be persuaded that the program is capable of meeting the objectives.

If a State fails to submit a nonpoint source management program consistent with the new section 319, the Administrator is to carry out some requirements of the act on behalf of that State. The Administrator is thus required to identify waters within the noncomplying State exhibiting nonpoint pollution problems and designate categories or subcategories of significant contributors to that pollution. Any actions of the Administrator pursuant to this subsection shall be reported to Congress.

Subsection (h), (i), and (j) of the new section 319 authorized Federal grants to States to assist in implementing approved management programs and authorizes funds to be appropriated to the Environmental Protection Agency for the administration of this program. The Federal grants are not to exceed 60 percent of the costs of implementing the management program of any State. Non-Federal funds must be equal to at least 40 percent of the costs of each State program. This requirement will ensure adequate State financial involvement while providing necessary Federal financial assistance.

The Administrator is to determine the apportionment of funds among the States according to the needs of the States reflected in reports on the extent of nonpoint pollution problems and the quality and promptness of State programs to control nonpoint sources.

The legislation provides financial incentives to States to implement programs that address particularly difficult nonpoint source pollution problems. In such cases, the environmental benefits from controlling the pollution may be large, but the State may be reluctant to devote a disproportionate amount of its program funds to such problems. The Administrator is expected to use the authorized funds to achieve more effectively the objectives and requirements of this act. Additional funding to States with particularly difficult problems will result in more expeditious implementation schedules and more rapid reduction in nonpoint source pollution loadings.

Interstate nonpoint source pollution problems may be difficult to control because the program costs to control the pollution may accrue mostly in one State while the environmental benefits accrue mostly to another. In such cases, the Administrator may supply additional discretionary grants to the appropriate State, or may provide additional funding to a joint or cooperative interstate program.

In addition, these funds may be used to assess the relationship between nonpoint source pollution and groundwater quality. The conference report includes a provision of the House amendment which authorizes the Administrator to make grants to States with approved nonpoint programs to protect ground water resources from nonpoint sources of contamination.

This bill provides that any funds not obligated in the fiscal year for which they were appropriated shall be reallotted among the States in the following fiscal year.

The new section 319 provides that States may use Federal funds authorized by this bill for financial assistance to persons only insofar as the assistance is related to costs of implementing demonstration projects. These Federal funds are not to be used as a general subsidy or for general cost sharing to support implementation of best management practices by persons. However, a State is not precluded from using or directing other funds for cost sharing or other incentive programs if it so chooses.

The term "demonstration projects" includes projects designed to educate persons about the application of best management practices and to demonstrate their feasibility and utility as well as research projects to establish the feasibility or cost effectiveness of best management practices.

Initial program grants are required to be awarded to States whose programs are approved by the Administrator. Subsequent grants can only be made if the Administrator determines that the State is satisfactorily implementing its management program consistent with its commitments to schedules and milestones. This annual review and determination is important to assure that States are effectively implementing their programs and that Federal funds obligated under this section are being used to achieve the goals and requirements of the Clean Water Act.

The conference report authorizes 4 years of funding for the nonpoint program: $70 million for fiscal year 1987; $100 million for fiscal year 1988; $100 million for fiscal year 1989; and $130 million for fiscal year 1990. These funds are authorized to be appropriated for grants to the several States pursuant to the provisions of this section and for the payment of salaries and expenses of the Environmental Protection Agency necessary to administer the Agency's obligations under this new section.

Additional funding for the program is provided through set asides of funds that the States would otherwise receive under title II of the Clean Water Act. One percent or $100,000 of the construction grant funds allocated to each State shall be used to develop and implement this new nonpoint pollution program. In addition, nonpoint source control efforts may be financed by the Governor's discretionary setaside which is 20 percent of the construction grants funds.

The bill requires each State to submit an annual report to the Administrator on its progress in meeting the schedule of milestones in its program and reductions in nonpoint source pollutant loading and improvements in water quality resulting from implementation of the management program.

The Administrator is required to transmit to the Office of Management and Budget and appropriate Federal agencies a list of the assistance programs and development projects which each State has identified for review pursuant to the authority of this bill. Beginning no later than 60 days thereafter each Federal agency is required to amend applicable regulations so that individual assistance applications and projects for the identified programs and development projects are submitted for State review. The appropriate agencies and departments of the Federal Government are required to accommodate, according to the requirements and definitions of Executive Order 12372, as in effect on September 17, 1983, concerns the State may express about consistency of assisted projects or activities with the State's Nonpoint Source Pollution Management Program.

The intent of this provision was explained partially in the comments I made a moment ago with respect to State responsibilities under this new section. Where the earlier subsection authorized the State to identify Federal programs and development projects for review, this subsection establishes the Federal responsibilities in response to such identifications by the States.

The purpose of the State review is to assure consistency of these Federal acitivities with the State's Nonpoint Source Management Program. If the State expresses a concern about consistency, the Federal agency is required to accommodate the Sate's concerns according to the requirements and definitions of Executive Order 12372 as in effect on September 17, 1983. The intent, therefore, is not to invent new procedures for Federal/

State coordination, but rather to incorporate existing procedures by reference in the Clean Water Act. This is an important provision because, without adequate State review, Federal activities over which the State has no direct authority could undercut its program and its water quality goals, possibly jeopardizing the State's ability to meet its program commitments under this section.

It is important that we clarify the meaning of the term "accommodate" in this context. It is a term of art. It means that any project proposed to be developed by a Federal agency or for which any person is seeking assistance must be in conformance with State views, policies, regulations, and laws. If a State objects to any aspect of a proposed project, then that aspect must be modified to reflect the view communicated by the State. Accommodate means modify to take into account concerns expressed by a State or local government in the review process so as to satisfy and remove those concerns.

The Administrator is to establish an information clearinghouse for information pertaining to the costs and relative efficiencies of best managment practices and the relationship between water quality improvement and the implementation of various practices. The purpose of this provision is to promote information sharing among the States and to provide the basis for technical assistance to State programs.

The Administrator is required not later than January 1, 1990, to submit to Congress a report, based on information submitted by the States and such other information as appropriate, describing the management programs being implemented by the States and their experience in adhering to schedules and implementing best management practices. This report must also describe the amount and purpose of grants awarded under this program; identify the progress made in reducing pollutant loads and improving water quality; and indicate what further actions need to be taken to reduce nonpoint source pollution in the context of the program.

The purpose of this report is to give Congress the information it will need to determine whether the approach taken in this legislation is adequate. This report will document the progress made under this approach and will provide information that will help determine the necessity of future statutory revisions.

Mr. President, this new section 319 represents a first step in controlling pollution from nonpoint sources. We have been persuaded to take a path somewhat different from that taken for point sources. States are given flexibility to identify priorities. And based on commitments made in this legislative cycle, it is the expectation of the Congress that this program will result in a significant improvement in water quality and nationwide reductions in pollutant loadings from nonpoint sources. We will, of course, revisit this question in the next legislative cycle on the Clean Water Act. And we will not find this program adequate, if real improvement in water quality has not been achieved.

The bill requires the Administrator to enter into agreements with the Secretaries of Agriculture, Interior, and Army and the heads of other appropriate departments and agencies to provide for the maximum utilization of other Federal laws and programs for the purpose of achieving and maintaining water quality through appropriate implementation of plans approved under section 208 of this act. This amendment would establish the same requirement in terms of management programs developed pursuant to the new section 319. Mr. President, I am especially interested in assuring that EPA and USDA make full use of the authority in this provision. Each year we spend hundreds of millions of dollars through USDA soil and water conservation programs. In the past, these soil conservation efforts have not given sufficient priority to improvements in water quality. It is the expectation of the Congress that this provision will give rise to a memorandum of understanding between EPA and USDA which will significantly elevate the priority assigned to water quality protection in projects assisted by the USDA soil and water conservation programs.

As I said a moment ago, Mr. President, the Administrator is directed to reserve 1 percent of a State allocation under section 205(c) or $100,000, whichever is greater for purposes of carrying out the provisions of this nonpoint program in that State. The State may request the use of any amount of the amount reserved by the Administrator. If the State identifies an amount less than the full reserved amount but greater than $100,000, the State may use remaining reserved funds for other purposes under title II of the act. For example, the State would be able to use the funds for direct grants to municipalities for construction of treatment works. The Administrator may establish such administrative and procedural requirements as necessary to assure that funds available to States under this section and section 319 are properly coordinated. Further, the Administrator may require a single application for grants under this section and section 319.

Grants under section 205(j)(5) shall meet the Federal and non-Federal cost sharing requirement set forth under section 319. In management of funds under this subsection, however, the Administrator shall not withhold any portion of funds to support special programs.

These funds are intended to be a supplement to the funds authorized by section 319, not to replace them. It is essential that adequate section 319 funds be appropriated in order to assure the development of a strong foundation of nonpoint management plans. In the event section 319 funds are not appropriated, the funds reserved under this subsection will permit modest nonpoint programs to be developed. However, the funds made available by this provision alone are too meager to support the level of program development that is needed to effectively and adequately manage nonpoint source pollution.

Mr. President, finally, let me say that this new program to control nonpoint pollution is an addition to the Clean Water Act and not a substitute for the point source programs already in place under the act. As a nation we have made great progress in reducing the pollution of our surface waters. Much of the work that remains to be done is on the nonpoint side. And we begin that work here. But this is not an excuse to reduce the effort or relax the requirements on the point source side. Reductions in pollution already achieved through point source controls are to be maintained. Point sources not yet in compliance with the law are to be pursued. And on top of that effort we now have a nonpoint program that will bring us much closer to the goal of the Clean Water Act—to eliminate the discharge of pollutants into the Nation's waters.

STORM WATER RUNOFF

Runoff from municipal separate storm sewers and industrial sites contains significant volumes of both toxic and conventional pollutants. EPA's national urban runoff study found 63 toxic pollutants, including 13 toxic metals, in the discharge from municipal separate storm sewers that were studied. Of these, lead, copper, and zinc were the most pervasive; EPA found these pollutants in at least 91 percent of its samples. The same study also estimated that municipal separate storm sewers discharge 10 times the total suspended solids that the Nation's secondary sewage treatment plants discharge.

Toxic and conventional storm water contaminants may adversely affect public health, harm fish and other aquatic life, and prevent or retard water quality improvements even when the best available pollution controls are installed on other point sources.

The Federal Water Pollution Control Act of 1972 required all point sources, including storm water discharges, to apply for NPDES permits within 180 days of enactment. Despite this clear directive, EPA has failed to

require most storm water point sources to apply for permits which would control the pollutants in their discharge.

The conference bill therefore includes provisions which address industrial, municipal, and other storm water point sources. I participated in the development of this provision because I believe that it is critical for the Environmental Protection Agency to begin addressing this serious enviornmental problem.

The bill establishes priorities, deadlines, and permit requirements for storm water point sources. It affords municipal and nonindustrial dischargers some relief from the 1972 permit application requirements.

With respect to municipal separate storm sewers, the bill establishes three permitting priorities: First, those systems serving a population of 250,000 or more; second, those which contribute pollutants to a stream segment which does not attain or maintain a water quality standard; and third, those which are a significant contributor of pollutants to any waters of the United States. If a municipal separate storm sewer or storm sewer system meets any of these criteria, EPA or the State, where the State administers the NPDES Permit Program, must require the source to apply for a permit within 3 years of enactment of these 1987 amendments. EPA or the State should use any available water quality or sampling data to determine whether the latter two criteria are met, and should require additional sampling as necessary to make these determinations.

If a source is required to obtain a permit, EPA or the State must also act to issue or deny the permit application within 1 year of the application deadline. If no permit application is submitted by the deadline, or if the submitted application is denied, EPA or the State must commence immediate enforcement action against the owner of the sewer system.

A permit for a municipal separate storm sewer may, where appropriate, be issued on a systemwide or jurisdictionwide basis. In writing any permit for a municipal separate storm sewer, EPA or the State should pay particular attention to the nature and uses of the drainage area and the location of any industrial facility, open dump, landfill, or hazardous waste treatment, storage, or disposal facility which may contribute pollutants to the discharge. Storm water permits shall include requirements to effectively prohibit nonstorm water discharges to municipal separate storm sewers. Non-stormwater discharges to municipal separate storm sewers are illegal under current law.

Permits issued under this section will provide for compliance as expeditiously as practicable, but in no event later than 3 years from the date the permit is issued and shall require controls to reduce the discharge of pollutants to the maximum extent practicable. Such controls include management practices, control techniques and systems, design and engineering methods, and such other provisions, as the Administrator determines appropriate for the control of pollutants in the storm water discharge.

Within 4 years of enactment or earlier if the water quality data warrants, EPA will commence a control program for storm sewer systems servicing communities with a population between 100,000 and 250,000. This schedule reflects the continuing need to control storm water runoff, but gives EPA flexibility, in the first 4 years after enactment, to order its permitting priorities around those sources which are believed to be the most significant. However, it should be clear that all storm sewer systems including those serving populations of 100,000 or less must be covered by the first round of permits where they contribute to water quality problems or contribute significantly to pollution of the waters of the United States.

After October 1, 1992, all remaining, unpermitted storm water point sources will return to current law status and will be required to obtain permits under section 402 of the Clean Water Act. Obviously, Congress will be taking another look at this whole question before that date and will be informed by the experience with storm water controls which have been established for larger communities under the provisions we adopt here.

EPA and the States should provide adequate opportunity for public participation in the development of any permit for a storm water point source.

The bill also requires EPA to submit to Congress a study of any storm water discharge or class of discharges which are not required to obtain a permit within the first 6 years of enactment. This study is to determine the nature and extent of pollutants in such discharges and procedures and methods to control such discharges. This study will enable Congress to determine whether permitting of the remaining storm water point sources should be expedited beyond the schedule provided in this bill.

GREAT LAKES

Mr. President, the Great Lakes are the heart of our continent. Over the last 200 years they have been the focal point for development of two great nations. They have been the source of food and drinking water. They are a mode of transportation. They are a reservoir of power and a vast resource for recreation and wildlife; 63 million Americans visit a park on the shores of the lakes each year.

All of these demands have taken their toll. The water quality of the Great Lakes has declined sharply. Unfortunately, the natural unity of the lakes has been overlaid by a fragmentation of State and local governments that have been unable to work together to effectively to protect what nature has provided.

In 1972 and again in 1978, the United States and Canada signed Great Lakes water quality agreements. These agreements provided that both nations would install adequate wastewater treatment facilities for the sewered population on each side of the border. Canada has met this requirement for 99 percent of its population. At last count, the United States was less than two-thirds of the way to this goal.

In 1982 the General Accounting Office published a report on U.S. compliance with other aspects of the Great Lakes Water Quality Agreement. The report concluded that the United States is failing to meet its commitments, especially with respect to toxic chemicals and nonpoint source pollution. This is due in part to the absence of a comprehensive U.S. strategy to implement the Great Lakes Water Quality Agreement. We hope to correct that failing with the new Great Lakes Water Quality Program which is authorized by this bill.

Mr. President, this legislation contains at section 404 a new program to restore and maintain the quality of the waters in the Great Lakes. This program owes much to the work of the Senator from Wisconsin [Mr. KASTEN], and was sponsored in committee by the Senator from New York [Mr. MOYNIHAN] and myself. Representative NOWAK, the new chairman of the Water Resources Subcommittee in the House, also played a major role in crafting this provision.

The objective of this new provision of the Clean Water Act is to achieve the goals embodied in the Great Lakes Water Quality Agreement of 1978. The legislation establishes the Great Lakes National Program Office within the Environmental Protection Agency and specifies the duties and responsibilities of the program office.

The program office is to develop and implement action plans to carry out the duties of the United States under the Great Lakes Water Quality Agreement of 1978; establish a systemwide surveillance network; coordinate the activities of the Environmental Protection Agency with respect to the Great Lakes; and to work with other Federal agencies to achieve the objectives of the 1978 agreement.

The program office will develop a 5-year plan for reducing the amount of nutrients that enter the Great Lakes and will incorporate in that plan management programs for nonpoint sources of pollution developed pursuant to the new section 319 of this the Clean Water Act.

The program office is to conduct a 5-year study of methods to remove toxic pollutants from the Great Lakes with emphasis on the removal of toxic pollutants from bottom sediments. Certain demonstration projects at specific sites are mentioned in the legislation. These projects are to be given high priority, but the Administrator is authorized to sponsor other projects and this section is not a guarantee that those projects named in the bill will be funded.

The annual budget submission of the Environmental Protection Agency to the Congress is to include a line item for the Great Lakes Program Office. At the end of each fiscal year the Administrator is to submit to the Congress a comprehensive report on the achievements of the program office during the preceding fiscal year.

The conference substitute establishes a Great Lakes Research Office in the National Oceanic and Atmospheric Administration. The research office is to identify issues with respect to Great Lakes water quality on which research is needed and is to compile an inventory of ongoing research on those questions. The research office is to develop a comprehensive data base for the Great Lakes system and may conduct research and monitoring activities itself.

For each fiscal year the program office and the research office are to prepare a joint research program. The head of each Federal department, agency, or instrumentality which is engaged in programs or activities which may have an impact on the water quality of the Great Lakes will submit an annual report to the Administrator of the Environmental Protection Agency with respect to those activities and their effect on compliance with the Great Lakes Water Quality Agreement of 1978.

The conference substitute provides an authorization to the Administrator of the Environmental Protection Agency of $11,000,000 for each of the fiscal years 1987 through 1991 to carry out the provisions of this section. Of the amounts appropriated, 40 percent is to be used by the program office to demonstrate the control and removal of toxic pollutants; 7 percent is to be used for nutrient monitoring; and 30 percent is to be transferred to the research office for its programs. As discussed on the floor of the House when this bill was considered there, these funds are in addition to the resources already committed to the Great Lakes program and are to carry out the new activities which are authorizing.

Mr. BAUCUS. Mr. President, section 506 of the Senate bill I would allow Indian tribes under certain circumstances to be treated as States. The Administrator is required to promulgate regulations which specify how Indian tribes shall be treated as States for purposes of this act. In promulgating these regulations, the Administrator is to consider the effects of differing water quality permit requirements on upstream and downstream dischargers, economic impacts, and present and historical uses and quality of the water subject to such standards.

Throughout Montana and much of the West, many Indian reservations are home to both Indians and non-Indians. Ranching, with its dependence on scarce water supplies, has led to an intertwining of both Indian and non-Indian water users. In one instance, a stream will originate on an Indian reservation and flow off the reservation on to either land within a State or land on an adjacent reservation.

Longstanding patterns of water user have evolved in the West. How will this provision affect these existing water rights?

Mr. BURDICK. It is not in any way to be construed as an impediment or a restriction on existing water rights or laws, either that of the various States or that of individual citizens.

Nothing in this act shall affect or interfere with any existing water quantities rights, their specific elements, uses, or methods of acquisition, whether within or without the borders of any Indian reservation or any state.

Private lands and water rights owners within boundaries of Indian reservations are not to be additionally affected by this act.

Those water quality standards set by Indian tribes and accepted by EPA will not be used off reservation borders.

Mr. MITCHELL. As the floor manager for the bill, I would like to reiterate that the interpretation of Mr. BURDICK is correct.

Mr. BAUCUS. I thank Mr. BURDICK and Mr. MITCHELL for their response.

Mr. ADAMS. I would like to ask the distinguished manager of the Clean Water Act to help me clarify an issue of concern to some of my constituents. Concerns have been raised that the Indian provisions of the Clean Water Act might alter the existing balance of water rights between Indians and non-Indians. My colleagues in the House, Representatives MORRISON and FOLEY, raised this issue with Representative UDALL, the distinguished Chairman of the House Interior and Insular Affairs Committee. Their concerns were addressed by a memorandum written to Representative UDALL that included the following conclusion:

Enactment of H.R. 1, with the Indian provisions will not expand or diminish any water rights Indian tribes may have nor will it expand or diminish any liability the United States, States, or third parties may have for impairing those rights.

I ask unanimous consent to have the memorandum in its entirety printed in the RECORD, and ask the manager of the bill what his sense is of how this bill affects the question of Indian water rights.

Senator BURDICK. I thank Senator ADAMS for giving me the opportunity to clarify this point. I appreciate the sensitivity of water rights questions throughout the Western United States. This bill does not alter the current state of the law on questions of the relative water rights between Indians and non-Indians. It maintains the status quo. Its intent is to provide clean water for the people of this Nation, and it is not in any way to be construed as an impediment or a restriction on existing water rights or laws.

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

MEMORANDUM

To: Morris K. Udall, chairman, Committee on Interior and Insular Affairs.

From: Ducheneaux/Broken Rope.

Subject: Indian provisions of the clean water bill.

You have directed us to address the objections raised by constituents of Mr. Foley and Mr. Morrison to the Indian provisions, of H.R. 1, legislation to amend the Clean Water Act. As you know, you strongly supported the inclusion of those provisions in the bill passed and vetoed by the President in the 99th Congress.

It appears that the objections being raised to the Indian provisions assert that these provisions either—

(1) expand the substance of existing Indian water rights;

(2) expand the mechanism available to Indian tribes to enforce those rights both within and without their reservation boundaries; or

(3) both.

CLEAN WATER ACT

I. Substance of Indian water rights

There is nothing in the existing law nor in the proposed amendments in H.R. 1 which in anyway expands the substantive rights of an Indian tribe to a quantity of quality of water. In fact, section 101 (g) of the existing law which is specifically made applicable to Indian tribes by the proposed Indian provisions of H.R. 1, specifically preserves the allocation or qualification of water rights which are otherwise legal under state law.

In like manner, there is nothing in the existing law or in the proposed amendments which impairs or is intended to impair any way existing substantive water rights of any Indian tribe.

Many Indian tribes have certain water rights deriving from treaties or other Federal law wholly apart from the Clean Water Act. These rights, often undetermined, include rights to certain quantities of water and rights to a certain quality of water, it is beyond question that Indian water rights include a right to some quantity of water.

There seems to be some doubt that this right extends to a right to a certain quality of water and the case law on this is somewhat sparse.

However, in the 1980 decision of the Federal district court in *U.S.* v. *Washington*, 508 F. Supp. 187, this very issue was addressed. The tribes asserted that their treaty fishing right included the right to environmental protection.

". . . It is well established that the scope of an impliedly-reserved right may not be broader than the minimal need which gives rise to the implied right . . . Thus, the scope of the State's environmental duty must be ascertained by examining the treaty secured fishing right rather than by selecting a desirable standard that has been imposed by Congress in a different context. . . . The treaties reserve to the tribes a sufficient quantity of fish to satisfy their moderate living needs. . . . That is the minimal need which gives rise to an implied right to environmental protection of the fish habitat. Therefore, the correlative duty imposed upon the State (as well as the United States and third parties) is to refrain from degrading the fish habitat to an extent that would deprive the tribes of their moderate living needs."

While the Circuit Court subsequently vacated the lower court's summary judgment on the environmental issue and remanded the case, it did so solely on the grounds of the proof necessary to show that the State had violated the tribes' fishing right through environmental degradation.

See also *U.S.* v. *Anderson* (1979), where the federal court held that the reserved water right included a minimum stream flow to preserve native trout. It also addressed a water quality issue, holding that this right required that the water temperature be maintained at 68 degrees F. or less for fishing purposes.

As noted, these water rights, whether asserted as to quantity or quality or both, exist separate and apart from the Clean Water Act. Either the tribes or the United States or both can have recourse to the Federal courts to enforce those rights.

Enactment of H.R. 1, with the Indian provisions will not expand or diminish any water rights Indian tribes may have nor will it expand or diminish any liability the United States, states, or third parties may have for impairing those rights.

II. Enforcement conflict resolution mechanisms.

There seems to be a concern that enactment of H.R. 1 with the Indian provisions will somehow expand or strengthen the power of an Indian tribe to act to protect its water rights, whether as to quantity or quality. That is not accurate.

A. Indian tribes are self-governing, exercising limited powers of inherent sovereignty within their reservations.

B. In the exercise of that power, Indian tribes have the right to regulate lands and other natural resources within the reservation, including non-Indian owned fee lands or resources.

C. States have no power to assert its laws within an Indian reservation to regulate lands or other resources unless Congress has specifically so provided. In fact, in *Washington* v. *EPA,* the Circuit Court upheld a decision of EPA denying the State environmental regulatory jurisdiction under the Resource Conservation and Recovery Act, over Indian lands. The court said, "States are generally precluded from exercising jurisdiction over Indian Country unless Congress has clearly expressed an intention to permit it.".

D. Conversely, Indian tribes, except in extremely limited cases, have no power to project their regulatory authority beyond the boundaries of the reservations.

E. The Clean Water Act establishes Federal standards for water quality. States are empowered to assume primacy for water quality regulation within the state by developing and having approved by EPA a Plan establishing State water quality standards which are which are no less stringent than those adopted by EPA. States may then issue State permits permitting certain water pollution activities which meet that State's water quality standards.

F. Where two or more states, sharing a common water body, have plans approved by EPA with differing standards of water quality, the Act does provide mechanisms for resolving inter-state conflicts. However, there is nothing in the existing Act or in the proposed amendments which gives EPA the power to force one state to changes its approved water quality standards or those valid activities done in accordance with its plan in order to accommodate the water quality needs of another state or states. The aggrieved state or states might have recourse against the offending state through litigation under other applicable law.

G. Recognizing the existing right of Indian tribes to regulate their environment within their reservation boundaries, the Indian provisions in H.R. 1 would permit those Indian tribes who have met certain exacting standards, to assume primacy for water quality regulation within their reservations. The provisions provide that tribes for limited purposes of the Act, would be treated as a State.

H. The Indian provisions of H.R. 1 require the Administrator of EPA to promulgate regulations to specify how Indian tribes will be treated as States for purposes of the Act. In doing so, he is required to consult with affected States charging common water bodies with tribes and to provide a mechanism for the resolution of unreasonable consequences that may arise as a result of differing water quality standards that may be set by States and tribes. However, just as in inter-state conflicts, nothing in that requirement, in the existing Clean Water Act, or in any other provision of H.R. 1 gives the EPA administrator or the tribes the power to force States to alter their approved water quality standards or their operations under an approved Plan in order to accommodate higher tribal water quality standards. Nor is there anything in the existing law or proposed amendments which would permit Indian tribes to project their internal regulations beyond the boundaries of their reservation.

We can find nothing in the Clean Water Act, as proposed to be amended by H.R. 1 which would in any way expand substantive Indian water rights or which would expand or enhance the power of Indian tribes to affect off-reservation activity which might degrade or despoil on-reservation water quality

January 7, 1987.

Mr. LAUTENBERG. Mr. President, I rise in strong support of H.R. 1, the Clean Water Act Amendments of 1987. This same legislation was unanimously adopted by both the House and Senate at the close of the last Congress. We knew then and we know now that this bill is a significant step forward in protecting this Nation's waterways, and deserves our support.

With its construction grants components, its Nonpoint Source Pollution Program, its tightening of toxic discharge controls, and storm water permitting program, this legislation will do much to address major environmental challenges.

Unfortunately, President Reagan pocket-vetoed this legislation. The administration asserted that the bill's authorization for construction grants was excessive. But this claim does not take account of the high costs of sewage treatment construction. It has been estimated that $109 billion is needed to finance such construction throughout the Nation, including $4.5 billion in my State of New Jersey.

Compared to these large needs, the bill before us is no budget buster. It is a rational downpayment on a major national problem. This legislation spreads $18 billion over 9 years for its Construction Grants Program. This sum is gradually allocated. And almost half of it—$8.4 billion—is targeted for State revolving loan funds. Such State loan funds will help create a self-sustaining source of money for States to finance local construction.

A strong construction grants program is essential for economic development across this Nation. If we do not have the sewage treatment facilities to handle the wastes resulting from economic development, we cannot move aggressively forward with such development.

Mr. President, the costs of not enacting this legislation—the harm to our environment, the burdens on our States and localities, and the damage to economic development—far exceed those of this measure.

Mr. President, some are arguing today that the administration substitute bill (S. 76) should be adopted instead of H.R. 1. But S. 76 is no substitute for a strong clean water bill.

The administration's bill would steal from this Nation the opportunity to make real progress in cleaning up our waterways. The substitute reduces by $6 billion the funding for communities' sewage treatment, including over a $200 million reduction in funds for my State. It also abolishes the mandate for establishing revolving loans, the component designed to allow our States independently to fund projects. And it limits States discretion in using funds for revolving loans.

The substitute eliminates the authorization and strength of the Nonpoint Pollution Control Program. S. 76 specifically removes the $400 million authorization of H.R. 1, and makes many of its important requirements, such as State nonpoint pollution assessments, simply optional.

Mr. President, the administration bill is a classic example of being "Penny wise and pound foolish." It is a haphazard and simplistic approach to a complex problem. It ignores the hard work and careful consideration this Congress has given to H.R. 1, and I urge my colleagues to oppose it.

The time for debate is over. We have the bill to do the job. Let's pass H.R. 1, and get on with the task of protecting

and cleaning up this Nation's waterways.

Mr. President, it is clear that this is a nation committed to the principles embodied in this measure. In the early 1970's, the people of this country made a fundamental decision that they wanted a concerted effort to clean up the Nation's waters—waters that are used for fishing, swimming, recreation, and drinking water.

This decision was made because of our growing awareness of and concern about water pollution. News accounts told us about Lake Erie being dead, the polluted Cuyahoga River in Ohio so filled with oil and debris that it caught fires, millions of gallons of raw wastewaters being dumped into the country's major rivers, such as the Hudson River, and many fishkills and oilspills.

The Congress responded by passing the Federal Water Pollution Control Act Amendments of 1972. This act established a goal—to restore and maintain the integrity of the Nation's waters—which captured the essence of the Nation's desire for clean water.

During the 13 years this act has been implemented, impressive strides have been made in cleaning up our Nation's waters. But much remains to be done. The Clean Water Act Amendments of 1987 include a number of provisions which address problems which are preventing us from achieving the goal of the Clean Water Act.

Also of great importance is future funding for the Construction Grants Program. Since passage of the Clean Water Act in 1972, Federal, State, and local sources have invested more than $56 billion in municipal wastewater treatment facilities resulting in the construction or improvement of approximately 3,500 treatment facilities. Properly running sewage treatment facilities are an essential component for cleaning up the Nation's waters. For example, sewage treatment plants in 1983 were removing 65 percent more of the two principal conventional pollutants—suspended solids and biological oxygen demand—than they were a decade earlier.

Yet it is clear that the existing Construction Grants Program is inadequate to meet remaining national needs. According to EPA, eligible construction needs through the year 2000 total $53 billion. Ineligible needs, those needs not eligible for Federal funding under the Clean Water Act, are more than $50 billion. According to estimates, New Jersey alone has $4.5 billion in eligible funding needs. New Jersey only receives approximately $100 million per year in existing Federal construction grant funding. Therefore it is imperative that we implement a new method of financing sewage facilities. A creative framework, which had its origins in New Jersey, is the concept of revolving loans.

The Clean Water Act Amendments of 1987 adopted this concept and will move us closer to the goal of providing an adequate source of stable funding for sewage treatment facilities. H.R. 1 would authorize $18 billion over 9 years for Federal sewer construction grants and loans. Under the bill, the Federal Government will gradually reduce categorical grants for sewage treatment facilities as it phases in a program of grants for States to capitalize State revolving loan funds.

These funds will provide the capital for municipal wastewater treatment facilities in the future. States can make low or no interest loans available to communities for construction of treatment facilities. As loans are repaid to the State revolving loan funds, the funds will be able to loan money to additional communities.

In addition, Mr. President, this bill will help spur the construction of needed sewerage facilities. In the case of municipalities which proceed to begin construction with their own funds, refinancing is permitted from a State revolving loan fund. Presently, most municipalities wait until it is their turn to receive Federal construction grant funding before they begin constructing needed facilities. This refinancing feature of the Revolving Loan Program would eliminate the disincentive for municipalities to move ahead quickly with construction that now exists with the grants program.

Municipalities are facing a 1988 deadline for installing sewage treatment facilities which provide secondary treatment. EPA has threatened to restrict development in municipalities which are not in compliance with the 1988 deadline. New Jersey imposed sewer bans in many municipalities and has warned others that they face such bans if the discharge from their sewage plants will not comply with requirements of the Clean Water Act. The reimbursement provisions in the conference report to S. 1128 should stimulate cities to meet the 1988 deadline.

Under the bill, States will have to enact legislation to give a legal entity of the State the powers prescribed in the act. During consideration of this legislation during the last Congress, the Environmental Pollution Subcommittee agreed that this legal entity can be an existing or new State entity or agency. When the States enact legislation to implement State revolving loan funds, they will have the flexibility to determine how the fund will operate subject to the requirements of this provision of the Clean Water Act.

For example, States would be able to establish loan terms based on the financial needs of municipalities with easier loan terms available to poorer municipalities. States can decide to initiate their loan funds prior to fiscal year 1989, the year they are required to do so. When States enact revolving loan legislation, they can determine whether to begin using their construction grant funds to capitalize their revolving loan funds prior to fiscal year 1989 and if so, under what terms.

Mr. President, I believe that the revolving loan concept contained in the bill will provide a stable source of funding for the construction of sewerage facilities while providing States with the flexibility to minimize the financial burden of these facilities on local municipalities.

The Clean Water Act amendments only slightly revised the allocation formula for construction grants. I would have preferred the Senate approach during the last Congress, which would have provided New Jersey with $15 million more in grant funds. But New Jersey stands to receive approximately the same amount it has been receiving—up to about $100 million this year—in such funds under H.R. 1. And the State will receive about $650 million over the life of the bill.

H.R. 1 also includes the Raw Sewage Abatement Act of 1985. This legislation which I sponsored, limits the discharge of raw sewage by New York City. At the time I introduced this legislation, New York City was the only major municipality in the country which still discharged raw sewage and wastewater into surrounding waters, without preliminary treatment of its wastes. It did so because of the absence of sewage treatment facilities in two major drainage areas in New York City. Two court ordered deadlines to cease this practice were disregarded by the city.

The provision that I sponsored imposed a cap on raw sewage discharges from the drainage areas in New York City which were without treatment plants, if the city failed to meet the deadlines for achieving advanced preliminary treatment contained in its current consent decree. If these deadlines were met, the cap would be unnecessary because all raw sewage discharges will cease. If the city failed to meet these deadlines, a cap was to be imposed in the drainage area in violation of the decree. It was to stay in effect until the city brought the affected plant online and it operated successfully for 6 months.

The imposition of a cap on raw sewage discharges upon a violation of the consent decree, in effect, said to the city of New York, "You cannot continue to grow without restraint if you cannot treat your wastes".

Upon violation of the cap, the city would be subject to the enforcement provisions in section 309 of the Clean Water Act. These penalties would be in addition to those provided for violation of the consent decree. They in-

clude tough civil and criminal penalties, and would enable EPA to seek a temporary or permanent injunction against the city, to bring civil actions against the city and to initiate criminal prosecution in cases of negligence or falsification of records.

With the changes adopted in the conference report, to section 309 of the Clean Water Act, a violation of the cap imposed by this amendment could result in substantial penalties of up to $50,000 a day. A violation stemming from a criminal conviction could lead to imprisonment.

Finally, Mr. President, the legislation states that it is the sense of the Congress that EPA should not extend the deadlines in the city's existing consent decree any further.

I am pleased to note that following my amendment, New York City finally began to comply with court-ordered schedules for construction of its North River and Red Hook sewage facilities. North River is currently on schedule to attain secondary treatment by 1991. Red Hook is on schedule to attain primary treatment by 1989. While Red Hook is on schedule, the fact that it is not operational means that discharge of raw sewage into the East River still continues. This legislation will ensure that New York's facilities stay on present compliance schedules, with no more extensions, and move us toward eliminating the dumping of raw sewage in the waterways of New York and New Jersey.

New Jersey has had its share of water quality problems. But treatment plants in northern New Jersey are all achieving primary treatment, and most of the major plants serving northern New Jersey are achieving secondary treatment, or are under construction to do so.

The New Jersey Department of Environmental Protection has imposed numerous sewer hookup bans in a number of New Jersey municipalities to improve compliance with the Clean Water Act. Several communities may finance the upgrading of their sewage treatment plants to secondary treatment without any Federal or State aid. In some cases, the Department of Environmental Protection in New Jersey required private sector parties to contribute to local efforts to upgrade sewage treatment facilities as the price of securing a sewer hookup permit and proceeding with planned development.

Mr. President, New Jersey and New York do not need to grow at each others' expense. Regional growth is good for both States. By the same token, Mr. President, this growth should be accompanied by appropriate environmental protection. It must not come at the expense of the environment. It must not come at the expense of New Jersey's tourist and commercial and recreational fishing industries.

These provisions in H.R. 1 will provide strong incentives for New York City to keep complying with its consent decree and bring its sewage treatment plants online as quickly as possible.

H.R. 1 contains a number of other provisions which will strengthen this Nation's effort to clean up its water. These include:

Establishing a new program for cleaning up toxic "hot spots"—waters that will not meet water quality goals even after industrial dischargers have installed the best available cleanup technologies required under existing law;

Requiring States to develop plans for combating nonpoint source pollution, such as polluted runoff from city streets and farmland. Conferees agreed on a $400 million authorization to help States implement the plans;

Restricting the use of fundamentally different factor waivers from national discharge standards;

Prohibiting, except in certain narrowly defined circumstances, so-called "backsliding," or weakening of cleanup standards when industrial and municipal discharge permits are renewed or reissued;

Establishing a national estuary program to solve pollution problems in interstate estuaries such as Delaware Bay and the Hudson-Raritan Estuary;

Requiring EPA to establish toxic contaminant criteria for sewage sludge use and disposal and to establish a public health and environmental protection basis for these criteria;

Authorizing a total of $85 million for lake water quality activities, including demonstration projects at New Jersey's Deal Lake, Belcher Creek, and Greenwood Lake, as well as $15 million for acid mitigation projects;

Retaining the existing law's requirement that discharge permits be renewed every 5 years. The House bill would have extended the permit term to 10 years for certain discharges.

Mr. President, I believe that enactment of the Clean Water Act Amendments of 1987 represents a positive step in the Nation's effort to clean up its water resources, and I urge that we pass this legislation today.

Mr. MITCHELL. Mr. President, I yield to the Senator from New York [Mr. MOYNIHAN].

The PRESIDING OFFICER (Mr. WIRTH). The Senator from New York.

Mr. MOYNIHAN. Mr. President, I thank the Senator.

I am happy to join my colleagues and associates in support of H.R. 1, and S. 1, the identical measure which we have introduced on this side.

I want to express particularly the pleasure which we all share that this measure has received strong bipartisan support in the 100th Congress. I wish to pay tribute to the distinguished senior Senator from the State of Vermont, our neighbor, the former chairman of the Committee on Environment and Public Works, Mr. STAFFORD, under whose leadership this legislation was first enacted by the Senate and ultimately by Congress.

The Water Quality Act of 1987 is a successor to the original legislation passed in 1972 which had as its laudable goal the cleanup of the waters of the United States to the point where they would be swimmable and fishable. In the great complexity of legislative language, I think it worth noting that when Congress established a standard, we confined it to terms that were tangible, immediate, and definable—"swimmable and fishable."

We did not want this to be an indefinite program, and it is not. The bill we have before us was the product of a 2-year conference with the House of Representatives. I was a member of this conference and can attest that it was a 2-year effort. Our bill provides that the Constitution Grants Program—which has funded the upgrading of our water treatment plants and thus has enabled remarkable progress in improving water quality—end in 4 years' time. Thereafter, a revolving loan fund will be established that municipalities can use for financing. It will be a self-sustaining arrangement that will not require Federal appropriations. We are talking about an appropriate end to a program begun in 1972, with the goal in sight.

What is this goal? It is the time when our waters are swimmable and fishable.

The year 1972 is not all that long ago, in terms of time. But I wonder if some of our memories of that previous period are not already fading—the period before the enactment of the Clean Water Act.

Senator STAFFORD, the distinguished former chairman of the Environment and Public Works Committee, told a story at the press conference that we held on January 6, the first day of the Congress where a bipartisan group of Senators from the committee assembled to introduce the measure. Senator STAFFORD is a naval person, a yachtsman who has been known to make his way through the Champlain sections of the Erie Canal at Lake Champlain which the sovereign States of New York and Vermont share—even on the coast of Maine. On that occasion last week the Senator noted that there was a time that if you fell into the Potomac River, there really was not much point in swimming back to the surface—there was no cure for that kind of exposure.

In turn, I told of a time when I went to a NATO meeting in Brussels which convened the Committee on Challenges of Modern Society, a committee

which still exists. Here was an instance where the United States had brought the environmental issue to Europe, which had equal if not worse problems. In the tradition of American hyperbole—or so it might have seemed, but it happened to be fact—I said to the NATO Conference that the United States could make many claims which no doubt other members present could equal, but I did not think anyone could equal our claim to having a river which had just caught on fire. That river was the Cuyahoga River which flows through Cleveland, which had become so polluted that one night it actually caught fire, requiring the local fire department to extinguish a burning river.

That is a past not too far behind us but one already receding from our memory because we have a program here that worked. Did it require resources? Of course, it required resources. Was it worth it? Of course, it was worth it. One of the sensible transitions we are trying to encourage in the Environment and Public Works Committee is that of cleaning up waste from the past and preventing waste in the future. We have followed that general strategy in the Superfund legislation. With respect to toxic wastes left in the Earth, we are cleaning them up and isolating them so that their harmful effects are neutralized. Simultaneously we want to see an end to the production of toxic waste, which is a product of industrial life and one that can be managed and recycled. We can clean up the problems of the past and not create more problems for the future. We have understood that principle, and that is nowhere better demonstrated than with respect to the Clean Water Act.

We started out not 14 years ago and since then we have quite literally transformed the quality of this country's rivers and lakes. You can swim in the Potomac and you can fish in the Potomac. In any case you do not have to live in mortal fear of falling into the Potomac—and the Cuyahoga River has not caught fire since this legislation was enacted.

Now, what are we asking here? We are asking to bring to an orderly termination a program that began with a fixed goal, a goal which we have not yet attained but which we are certainly approaching. It is a goal which the American people certainly understand and support. We had a difficult lengthy conference with the House because of issues that are specific to many programs at this time. But in the end and in good time—96 hours before the end of the 99th Congress if I recall correctly, we reached agreement so that in both bodies the bill passed almost unanimously.

Mr. President, a few weeks later I was, as most of us were, back in New York or our respective States involved in the campaign, and I inquired of my Washington office, where was the bill and when was the President going to sign it? It seemed a very proper opportunity for the President to sign this bill and take his share of the credit for it. After all, it cannot become law without his signature, and surely he would want to do that prior to the election.

Then I learned something that was cause for apprehension. I learned that the Speaker had signed the bill and the bill had made its way to the Senate, but it had not yet received the signature of the President pro tempore and therefore had not made its way to the White House. Only when the bill leaves the Congress is it that the 10-day period commences during which a bill must be vetoed if Congress is in session or else it becomes law. Alternately, Congress having adjourned, if no action is taken, it is in effect vetoed by the absence of any action by the President, which we have come to call the pocket veto.

I leaned to my disappointment that something had happened in the Senate, that the bill had not reached the White House until such time that the 10-day period would not expire until after the election.

I took the liberty, Mr. President, of calling a press conference in New York State to discuss this unexplained delay. New York has a very great interest in this legislation; a formidable portion of the raw sewage that is discharged into navigable waters in the United States enters the Port of New York from the Hudson and East Rivers. It is our responsibility to halt this discharge, and we have not yet fulfilled it, but we will in this last phase of the program. Now, I asked at the time, could not the President assure us that he was going to support this measure and sign it before the election? And I offered the gratuitous advice that candidates of his party could take credit for the Clean Water Act after the President signed it, or he could ask them to the White House for a signing ceremony, give them pens, pictures to take home, spots on television, all that paraphernalia of a campaign.

Well, silence came. And then I held yet another press conference to say, "Look, the silence is ominous. It can only suggest that the President's advisers are saying, Don't sign this bill. Because if he were going to sign it, the clock running as it was, we would have heard quickly back, Don't worry; the bill is going to be signed Monday, Saturday, or whatever. And then in fact I did send a message, whom it reached, I do not know—saying, "Mr. President, sign the bill. Do not let your advisers do you a disservice. This is a bill that passed unanimously in both Houses of Congress. You can sign it now in a spirit of cooperation or it will come back to you in January in another spirit."

The election came and went and then, of course, the majority changed in this body so that we could be perhaps just a little more certain of cooperating with the majority in the other body. In any event, this has been a bipartisan effort, led in the previous Congress by the Republican majority.

I issued my last plaintive plea to the White House, to say to the President, "Why don't you just sign that bill, and avoid starting out the next Congress with this problem?"

Again, advisers prevailed, and here we are today. But we are here in a bipartisan spirit without any measure of vindictiveness. I am a little disappointed that we have to go through this once again, but actually not that much time has expired.

It seems to me, even so, that we should get this matter completed expeditiously. Now we have before us H.R. 1. The House, making a special effort, stayed in session long enough to pass the bill in its first week. That is not the normal pattern of the House, as the distinguished Presiding Officer [Mr. WIRTH] knows. They tend to swear in their new Members and then recess for a period in January. They swore in their new Members and then stayed to pass H.R. 1; a bill with pride of place in that body. I think only the Speaker of the House could decide which bill should hold the honor of being H.R. 1.

I know that in the Senate, only the majority leader has the personal privilege of assigning the first 10 numbers; and our distinguished majority leader, upon hearing the suggestion, said that the Clean Water Act would be S. 1; the bill with the pride of place in the Senate.

So we have H.R. 1 on our desks. There it is—H.R. 1—identical to the bill adopted in the closing days of the last Congress, and the first bill to appear before us in this Congress. S. 1 is no doubt being printed of this time. It is an identical bill.

Both bodies adopted the Clean Water Act by nearly unanimous vote in the last Congress. If memory serves, in the House it was adopted as near to unanimous as makes no matter—406 to 8. The Senate passed it by 96 to 0, unanimously. I cannot but think it will have the same outcome this year.

With that expectation, I would like to move forward. We are ready. We are in session. We are giving good and fair notice that this is our purpose.

The Committee on Environment and Public Works met Tuesday morning of last week, before the 100th Congress convened to declare that this would be our first order of business. Here we are. So can we not conduct some business? The always loyal and indefatigable Senator from Vermont is on the

floor. The distinguished senior Senator from Maine, who is the chairman of the subcommittee with jurisdiction over this matter is present. We are ready.

I understand that the minority leader would like to offer, as a substitute for H.R. 1, the proposal prepared by the Office of Management and Budget, and that is fine. If he wants a vote on that, that is fine. But we want a vote on H.R. 1; we want to get it to the President, and to get the matter over with. There is nothing to be gained from beginning this 100th Congress in a spirit of confrontation. The virtually unanimous approval of the Clean Water Act is a decision Congress has made, and one which the President will surely abide by once he becomes aware of the true measure of support this bill enjoys. I cannot imagine the President was thinking about this in those last days of the campaign. He was campaigning very hard. He has had other matters on his mind since. Here is a chance for the President to get in step with the legislative agenda of the 100th Congress and get a piece of work done; a good, clean piece of work, in the name of clean water. It is doable and, so far as I am concerned, can be done this afternoon. If not this afternoon, why not tomorrow? Then we can get on with the business of this Congress by concluding the unfinished business of the last Congress.

Mr. President, I thank the Chair for its courtesy in this matter, and I thank my friends from Vermont and from Maine.

I see that the distinguished senior Senator from Maryland is on the floor, and wishes to speak to this matter, as anyone with jurisdiction over the Chesapeake Bay would. As someone with jurisdiction over the Hudson River, I share his concern for the quality of our Nation's rivers and estuaries.

I would like to take a moment to express my pleasure in addressing Mr. SARBANES as the senior Senator from Maryland. It is the first occasion I have had to do that. I congratulate him on this honor, and can testify to the excellence which he brings to his new position. I thank him for his patience.

Mr. President, I have a formal statement on the matter which details the specifics with reference to my State in the Clean Water Act. I ask unanimous consent that it be printed in the RECORD at this point.

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

STATEMENT OF SENATOR DANIEL PATRICK MOYNIHAN

Mr. President, I rise today to urge quick passage of the Clean Water Act Amendments of 1987, H.R. 1, a priority of the 100th Congress. This legislation, approved unanimously at the close of the 99th Congress, is important to our nation, and to my State of New York. Passage of this legislation has become a bipartisan goal of the new Congress. We cannot afford to wait any longer to send the funds to the states for their water pollution programs. Therefore we are requesting that our colleagues not offer amendments to the bill which is before us, which is identical to the Conference Report passed by the 99th Congress.

When the President allowed the legislation to expire by reason of the so-called pocket veto on November 6, 1986, he placed in jeopardy 14 years of good, hard work. Congress is acting today to finish the task it began with passage of the original Clean Water Act of 1972—to clean up the nation's waters. The sum of 18 billion dollars authorized by the bill over eight years will enable the states to ameliorate the worst cases of water pollution which threaten our drinking water particularly and our water resources generally. After four years, the construction grants program which funds sewers and treatment plant on a 55% federal, 45% state basis, will be converted into a revolving loan program, which will be self-sustaining. Therefore, this is not another huge federal subsidy with no end in sight; rather, it is a targeted effort which ultimately will be self-perpetuating. As such it leverages federal funds, providing seed money for the states' own revolving loan pools.

CLEAN WATER IN NEW YORK

If this legislation passes, which we have every confidence it will, New York will receive $268 million annually in federal grants through 1990, or nearly $1.1 billion of the $18 billion authorized across the nation. This is the highest annual amount received by any state. (California is the next highest recipient at $173 million annually; New Jersey receives $99 million, and Connecticut $30 million).

Without this legislation, a number of New York treatment facilities will be unable to meet the July 1, 1988 deadline mandated under the Act for secondary treatment. The Office of the Attorney General of New York has already begun to notify municipalities which may not be able to meet their compliance schedules.

I need not remind New Yorkers of our dependence on clean water. The striped bass in the Hudson are too contaminated to be eaten safely. Long Island's aquifer which is the drinking water for three million people is being depleted and polluted. And under New York City's streets old leaky water mains reluctantly disburse water to city residents.

Passage of the Clean Water Act Amendments of 1987 must be the cornerstone of our federal water policy. The 99th Congress passed the Safe Drinking Water Act, which strengthened EPA's capacity to protect and to improve our country's drinking water supplies. The Safe Drinking Water Act contains the Sole Source Aquifer Protection Act, which I first introduced in 1982, designed to protect irreplaceable aquifers and such as the one on Long Island. Together with national groundwater legislation, which I am also introducing in the 100th Congress, these statutes will provide a comprehensive approach to maintaining and improving our water. We cannot afford to wait until these waters are polluted. It is much more expensive to clean up water—particular groundwater—after contamination than to prevent it in the first place.

Mr. President, allow me to review the goals of the Clean Water Act

GOALS OF 1972 CLEAN WATER ACT

The Federal Water Pollution Control Act was enacted in 1972 with an exuberantly optimistic set of goals. By 1983 the Act envisioned clean rivers throughout the Nation; by 1985 it sought to eliminate altogether the discharge of pollutants into our waters.

Two major strategies were embodied in the act to achieve these goals. First, a large Federal grant program was established to help local areas construct sewage treatment plants. According to the Congressional Budget Office, $52 billion (in 1984 dollars) total has been spent by the federal government on this construction grant program since 1972.

Second, the act required that all municipal and industrial wastewater be treated before being discharged into waterways, to remove pollutants ranging from organic materials, bacteria, and viruses to toxic chemicals and heavy metals.

Under the act's National Pollutant Discharge Elimination System the Environmental Protection Agency established limits on the maximum allowable discharge of specific pollutants from treatment plants and industrial facilities. These limits were based on available detection and control technologies, and took into account the compliance costs to the regulated community. They are written into permits issued to all such discharging facilities.

Significant progress has been made towards cleaning up the nation's waters. According to EPA's 1984 National Water Quality Inventory, many of the most severe pollution problems of the 1960s and 1970s have been abated. Moreover, despite substantial growth in the nation's population, industry, and development, overall water quality remained roughly stable between 1972 and 1982—a major accomplishment. A 1984 study by the Association of State and Interstate Water Pollution Control Administrators found that of 350,000 miles of streams and rivers monitored during this period, water quality improved in 13%, stayed the same in 84%, and declined in only 3%. We have been doing something—several things—right.

The Clean Water Act Amendments of 1987 strengthen and add to our current statutes. I will review briefly the most important provisions in these amendments.

CONSTRUCTION GRANTS FOR SEWAGE TREATMENT PLANTS

H.R. 1 authorizes 18 billion dollars in federal support over eight years for the construction grants program, on a 55% federal, 45% state basis. This program enables construction and upgrading of sewage treatment plants. The goal is to have all sewage treatment plants achieve secondary treatment by 1988 (a process which removes 85% of solid and organic matter). In 1989, the revolving fund plan begins, the goal of which is to convert the states' construction grants program into a self-financing program. Such an approach has worked extremely well in Texas and other states. The governor will have the discretion to apportion grant funds and loan funds in order to meet the particular needs of his or her State. With wise planning, the states should make this transition without any disruption in their current schedules of priority work.

I am pleased that the current allocation formula for construction grants has been left virtually in place. This formula, which is based on the current EPA needs survey, correctly reflects the immediate needs in our urban areas in the Great Lakes and

Chesapeake Bay regions. Our older cities place the greatest population pressures on the water systems, which also tend to be the oldest systems. New York receives $268 million annually under this allocation.

NONPOINT SOURCE POLLUTION

This bill provides $400 million to initiate the first national program to control nonpoint source pollution, primarily runoff from agriculture and urban areas. Scientists at EPA have determined that nonpoint source pollution (pollution not from a single pipe or outfall) is a significant contributor to degradation of water quality. This includes runoff contaminated by fertilizers and other chemicals, as well as runoff from city streets which often contains high levels of salts and oils.

As part of this effort, conferees worked diligently with cities and counties as well as with environmental groups to devise a stormwater permit system that would improve water quality without being too costly or too cumbersome for EPA to administer. A recent court decision had ordered EPA to issue permits for virtually all storm sewers, which would have required EPA to issue 50,000 more permits on top of the 65,000 point source permits EPA already issues. This would have diverted EPA personnel efforts from control of toxic contaminants in water to a paper shuffling exercise that would not result in environmental improvements in most cases. The Conference agreed on a provision which would require permits from industrial discharges to storm sewers, and from cities over 250,000 in population where those discharges are significant contributors to pollution.

CLEAN LAKES PROGRAM

H.R. 1 provides 85 million dollars for a Clean Lakes program which States can use to clean up silted lakes, and to lime acidified lakes.

ESTUARIES PROGRAM

The bill provides 48 million dollars for an estuary research program, which identifies several estuaries of national importance, including New York and New Jersey Harbor. Under this provision EPA can offer up to 10 million dollars per year on a 50 percent matching basis to States to study and implement cleanup in the New York-New Jersey Harbor area.

BAN ON DUMPING OF SLUDGE IN THE NEW YORK BIGHT

The bill bans as of December 1987 any additional users from dumping sewage sludge in the New York Bight 12 miles off Sandy Hook, N.J. The bill also restricts the use of the site 106 miles off the coast to those currently using the 12-mile site.

FUNDS FOR BOSTON TREATMENT PLANTS

H.R. 1 includes 100 million dollars to fund sewage treatment plants in Boston Harbor, assisting Boston in complying with its court ordered directive to stop dumping sludge in the ocean.

GREAT LAKES OFFICE

The conferees agreed to establish a Great Lakes International Coordination Office within EPA to focus on control of toxic pollutants and achievement of goals in the Great Lakes Water Quality Agreement of 1978. The bill also establishes a Great Lakes Research Office with the National Oceanic and Atmospheric Administration to carry out a comprehensive Great Lakes research program, with special attention to sediment control projects.

The Great Lakes Office program includes a $11 million annual authorization from 1987 to 1991 for a data base for monitoring and clean up of the water quality of the lakes, and for priority cleanups of contaminated sediments in five target areas in the nation, one of which is the Buffalo River in New York.

TOXIC HOTSPOTS

The Clean Water Act Amendments of 1987 establish a new "toxic hotspot" program which requires EPA and the States to work together to identify toxic hotspots which require special attention and additional controls. EPA has already tentatively identified 34 of these areas which may require more stringent controls than the "best available technology" standard currently mandated by the Act. Albany, Rochester, and Syracuse were areas in New York listed by EPA for this priority attention. In addition, the International Joint Commission has identified 42 areas of concern for toxic pollutants in the Great Lakes. These include the Buffalo River, Eighteen Mile Creek, Rochester Embayment, Oswego River, Niagara River and St. Lawrence River in New York. EPA will review the IJC's recommendations in augmenting its toxic hotspot program.

All in all, this is a most worthy bill. I join my Chairman, Senator Burdick, Subcommittee Chairman Senator Mitchell, and colleagues on the Environment and Public Works Committee, and other cosponsors in urging its immediate consideration and passage. I ask that an Appendix listing priority water projects in New York State be included in the RECORD at this point.

APPENDIX A.—ESTIMATE OF FEDERAL CONTRIBUTION TO PRIORITY WATER TREATMENT FACILITIES IN NEW YORK STATE

	Estimated total cost	Estimated Federal share
Ft. Covington (St. Lawrence County)	$2,726,000	$1,499,300
Village of Oxford (Chenango County)	4,610,600	2,535,830
Village of Gowanda (Cattaraugus County)	9,700,000	5,335,000
Village of Croghan (Lewis County)	2,700,000	1,485,000
Schuylerville (Washington County)	1,268,500	697,675
Cuba (Allegany County)	2,900,000	1,595,000
Cedar Creek Sewage Plant (Nassau County)	48,000,000	36,000,000
Mamaroneck Sewer District (Westchester County)	8,625,000	4,743,750
Dewey Eastman Tunnel (Monroe County)	24,300,000	13,365,000
City of Gloversville (Fulton County)	6,170,000	3,393,500
Batavia (Genesee County)	28,776,000	15,826,000
Buffalo (Erie County)	5,589,565	3,074,261
South Glens Falls (Saratoga County)	3,500,000	1,925,000
Chautauqua (Chautauqua County)	440,477	310,457
Binghamton (Broome County)	11,831,300	6,507,215
Cheektowaga (Erie County)	872,765	654,564
Cheektowaga (Erie County)	263,050	144,678
Great Neck (Nassau County)	16,277,681	8,952,724
Great Neck (Nassau County)	2,990,776	1,644,927
Westchester County (New Rochelle)	650,000	487,000
Greece (Monroe County)	1,043,500	573,925
Rochester (Monroe County)	13,500,000	10,125,000
LeRoy (Genesee County)	437,333	328,000
Owls Head (Brooklyn)	14,816,963	11,112,722
Owls Head (Brooklyn)	48,588,494	36,441,370
Owls Head (Brooklyn)	53,119,363	39,839,523
Oakwood Beach (Staten Island)	49,000,000	26,950,000
Oakwood Beach (Staten Island)	5,000,000	3,750,000
Project (after 1987):		
Oakwood Beach (Staten Island)	100,000,000	NA
Owls Head (Brooklyn)	87,000,000	NA
Coney Island (Brooklyn)	280,000,000	NA
Bay Park (Nassau County)	53,000,000	NA
Mamaroneck (Westchester County)	116,000,000	NA
Rochester (Monroe County)	27,000,000	NA
Oriskamy Falls (Oneida County)	4,300,000	NA
Stillwater (Saratoga County)	1,300,000	NA
Bolivar (Allegany County)	2,2000,000	NA

Ms. MIKULSKI. Mr. President, I am very pleased that my first remarks on the floor of the U.S. Senate are on an issue of enormous importance to Maryland and the Nation—the Water Quality Act of 1987.

It is altogether fitting that this important piece of legislation is the first item on the agenda for the 100th Congress. It is with great pleasure that I rise in support of this bill.

I worked very closely on this bill as a Member of the House of Representatives in the 99th Congress. By passing this legislation, we will once again send a strong message to the administration, corporations and citizens alike: That this Congress knows that good environment is good business; and there is no conflict between the two.

What does this bill do? It does a number of important things for America and for the State of Maryland. Of particular interest to the State of Maryland is its significant impact on the cleanup of the Chesapeake Bay.

Mr. President, we in Maryland are proud of our bay. It is part of our history and our heritage. We have the bluest crabs, the finest oysters, and the best watermen to be found anywhere. That is the legacy we want to pass on to our children and our grandchildren. This legislation will help us do that in Maryland and in every area of this country where important estuaries exist.

This bill will do much more, however, than just clean up the Chesapeake Bay and other estuaries. It will help pay for construction of new sewage treatment plants that our growing communities must have—and it will modernize existing sewer systems which our older towns and communities already have. As a result of this legislation, the State of Maryland will receive $59 million each year for sewage treatment improvements. This is a public investment that is good government and good business. It will lead to rational growth and development and will help communities help themselves.

For the first time, this bill will require States to develop and implement programs to control nonpoint source pollution into our rivers, streams, and bays. Oil and grease runoff from city streets, pesticide runoff from farms, and polluted runoff from new construction sites must be stopped and the States are in the best position to implement controls to do just that.

Scientists confirm that 50 percent of the pollution in the upper areas of the Chesapeake Bay comes from nonpoint pollution, mostly in the form of farm runoff. Earlier this year, we had a great tragedy in Maryland—a very severe drought. While the drought hurt farmers, it helped the cleanup of the Chesapeake Bay by reducing farm runoff. Mr. President, the cleanup of our Nation's estuaries should never have to depend on natural disasters. We must take control of the problem ourselves and correct it. This legislation will do that.

One final point, Mr. President. The Water Quality Act of 1987 also includes provisions for the National Estuary Program. This program is modeled after the Chesapeake Bay Program which unites the effort of Maryland, Virginia, Pennsylvania, and the District of Columbia in cleaning up the Chesapeake Bay. The offices for the Chesapeake Bay Program are located in Annapolis, MD, and receive $3 million a year in funding under this legislation. That is money well spent because it is used to monitor the Federal expenditures used for bay cleanup efforts, making sure that money is spent wisely and effectively. What we have learned in this region about cleaning up the Chesapeake Bay will be of valuable assistance nationwide as other States and regions work to clean up their polluted waters.

By saving a great estuary life in the Chesapeake Bay, we are saving existing jobs and creating new ones—from the watermen out on their skipjacks who bring in the crabs to the waiters who serve them at Phillips restaurant in Baltimore's inner harbor.

But it is more than just restaurant jobs that we save by saving our estuaries; it is the whole gamut of real estate jobs from salespersons to developers and it is thousands of jobs related to the tourism industry from desk clerks to summer lifeguards. In voting for this legislation, we are voting for a balance between good business and good environment—and that is good government.

This bill will result in public investments that will generate private sector jobs. It will secure to future generations of watermen and the industries they support a livelihood and a way of life. It will save for us all and our children an irreplaceable natural resource otherwise threatened by destruction.

This is not an ill-conceived spending bill. Rather, it is an investment that will help get Maryland and our country ready for the future; an investment that will yield dividends for generations to come.

Unless we want the Chesapeake Bay and other estuaries from Maine to Florida, from New York to California, to become 20th century Sargasso Seas, then we must pass this legislation.

I urge my colleagues to vote yes on the Water Quality Act of 1987 and I thank the leadership of the Senate for bringing this most important bill to a vote so early in this session.

I yield the floor.

Mr. SARBANES. Mr. President, I rise, first, to congratulate my very able and distinguished colleague from Maryland for her very effective floor speech in behalf of the Water Quality Act of 1987. It is her maiden speech on the floor of the U.S. Senate and obviously augurs well for the future, because it was a very well structured, highly effective presentation of the case for this legislation.

My colleague has had a longstanding interest in the clean water issue, particularly as it affects the Nation's greatest estuary, Maryland's Chesapeake Bay.

While as a Congresswoman for 10 years she has represented an urban district, she has been extremely sensitive to the environmental considerations involved in the clean water bill and has recognized that good environment is good business and that there need be no conflict between the two. I think it is a reflection of the longstanding interest she has had in this matter that she should on her first occasion to take the floor of the Senate to speak in such strong and effective terms in support of this legislation. I congratulate her on her first statement to the Members of the Senate, and predict that her effective advocacy is going to have a very strong influence on the thinking of the Members of this body.

Mr. President, I am pleased to join my colleague, Senator MIKULSKI, in strong support of H.R. 1, the Water Quality Act of 1987, to reauthorize and improve the Clean Water Act.

This legislation is identical to S. 1, which I joined in cosponsoring, and it is identical with the legislation which passed both Chambers last fall. It was agreed upon between the two bodies and then was unfortunately pocket vetoed by President Reagan—after the adjournment of the Congress.

Passage of this legislation is one of the highest legislative priorities I set for this session, and is certainly one of the highest priorities for the State of Maryland and for those who use its waterways.

I want to thank Senators BURDICK, STAFFORD, MITCHELL, and CHAFEE and other members of the Environment and Public Works Committee for their leadership in bringing this legislation so expeditiously to the floor of the Senate.

Let me focus on the legislation for a moment from the Maryland point of view because it contains several provisions critical to our continuing efforts to clean up the Nation's largest and most productive estuary, the Chesapeake Bay.

The bill recognizes the critical importance of the bay and authorizes $52 million over a 4-year period for the State-Federal Chesapeake Bay Program.

The bill provides $3 million a year to support the Office of Chesapeake Bay Programs in the Environmental Protection Agency, an office located in Annapolis, MD, and in addition provides $10 million a year in cost-shared grants to the bay area States. It will, therefore, help to ensure the continuation of a multistate program which our former colleague, Senator Mathias, had so much to do in putting into place.

Second, this legislation reauthorizes the municipal sewage treatment construction program, a vital part of any effort to improve the Nation's water quality. While the $13 million a year to which I just referred for the specific Chesapeake Bay Program itself is important, we cannot successfully improve the water quality of the Chesapeake Bay without the sewage treatment construction program.

More than 1,000 sewage treatment plants discharge directly or indirectly into the bay and their effluent represents a substantial part of the total pollutant load to the bay, including approximately 60 percent of the total phosphorous load. Through comprehensive sewage treatment, significant reductions in nutrients and toxic pollution have been achieved since the passage of the Clean Water Act in 1972 but continued progress toward construction and upgrade of sewage facilities throughout the bay watershed is necessary.

The State of Maryland alone needs at least $60 million a year to meet the goals of the Clean Water Act and to reduce nutrients and toxics currently being discharged into the Chesapeake Bay. Under this legislation funds for treatment plants would still be available on a formula basis and would be recycled as States repaid loans under a revolving fund loan program. This will enable the States to move toward financial self-sufficiency for waste water treatment construction.

Third, the bill establishes a very important new program to control nonpoint source pollution such as runoff from farmland and from city streets and authorizes a total of $400 million over 4 years to help States carry out nonpoint pollution control and related ground water protection activities.

Nonpoint source pollution has been identified as a key factor in maintaining water quality. The EPA 7-year Chesapeake Bay study underscored the importance of addressing the nonpoint source pollution problem, and I welcome the program contained in this legislation as a major effort to come to grips with this issue.

In addition, this legislation contains a number of other provisions which will strengthen our efforts to clean up our Nation's waters, including permits for municipal and industrial storm water discharges, provisions to prohibit backsliding; that is, the relaxation of cleanup requirements when a discharge permit is renewed or rewritten and a new program to combat toxic hot spots, waters which will not meet water quality goals even after the best available cleanup technologies required by law have been installed.

Mr. President, I again commend the committee and its leadership for very

quick action in bringing this measure to the floor. It should already have been law because with a vote of 96 to 0 in the Senate and 408 to 0 in the House last session, it was obviously sent to the President not only with overwhelming congressional support but unanimous congressional support. Unfortunately, the President chose to pocket-veto the legislation. It is, therefore, necessary for us to reenact it.

The measure before us is exactly the measure that was cleared by the last Congress and which had such overwhelming and unanimous support from the membership.

I would hope that the President would see his way clear to signing the legislation this time. If not I very much hope that Congress will enact it into law, the veto of the President notwithstanding.

This is a very important piece of legislation, one of the most significant that will come before this body in the 100th Congress. It addresses a pressing national problem. In addition, it addresses a problem of keen and critical importance to us in the State of Maryland.

I urge its enactment, and I close by again congratulating my colleague from Maryland for her opening speech, which was enormously effective and which obviously was the forerunner of many similar such presentations which I think it will be the privilege of this body to hear in the coming months and years.

Mr. President, I yield the floor.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. BURDICK). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Colorado.

Mr. WIRTH. Thank you, Mr. President.

This is an enormously important piece of legislation.

I want to join my fellow Senators in commending the distinguished Senator from Maine and the distinguished Senator from Vermont for their expeditious handling of this very important bill.

From my region of the country, it is no mystery that water is the lifeblood of that whole area. We have spent most of our history talking about how we might store and use water. That era has slowly but surely come to an end and the issue now has become how do we preserve that water and how do we assure that that water is as clean as it can be.

This legislation goes a long way toward helping us with that second great challenge that we face now in the second century of my State's history.

We also are deeply concerned, Mr. President, about the economics of water in the State of Colorado and in my whole region. It is very clear that increasingly our economy is dependent upon recreation, tourism, sports—other very important uses of our water.

And if we do not have clean water, it is going to be extremely difficult for us to maintain not only the health of our economy but the quality of our life.

For those reasons I once again urge my colleagues' expeditious handling and passage of this important legislation and once again commend my colleagues for moving this bill as rapidly as they have.

This bill is essential to protecting the health and safety of American families who rely upon our lakes, rivers, and streams for their drinking water. Toxic water pollutants frequently accumulate in stream sediments and in aquatic life. As a result, these hazardous substances will persist for many years. We must get on with the task of eliminating these discharges from the Nation's waterways now.

Water pollution also threatens the natural environment. Each of us is poorer for the loss of valuable wildlife habitat to the steady effects of water pollution, regardless of whether the source of that pollution is an industry, an urban area, or an abandoned mine. The strengthening amendments in the bill before us today will give EPA and the States the tools they need to protect water quality and to clean up those streams and rivers that are still polluted.

Finally, Mr. President, this bill makes good economic sense for my State. Recreation and tourism is now the second largest industry in Colorado. Last year, nearly 1 million anglers spent a total of nearly 10 million recreation days fishing in Colorado. Colorado's untamed rivers were used by tens of thousands of people for recreational boating and rafting. And snowmaking made it possible for skiers from around the world to ski earlier and longer than they otherwise could have.

The Clean Water Act, which was first enacted in 1972, has achieved many of its purposes. Industrial and municipal pollution have been reduced. As a result, the water quality of many streams has improved, in some cases dramatically. Atlantic salmon are being reintroduced to cold water streams along the northeastern Atlantic coast. Lake Erie and Lake Ontario are reviving. And the majority of lakes and streams in this country support sport fish populations.

But challenges remain. In many parts of the country, including my State of Colorado, there are toxic pollution hotspots that threaten our health and our environment. The Federal and State environmental agencies have understood for some time that some major sources of pollution have been ignored, especially storm water runoff from urban areas, mining sites, and agricultural lands. And many cities still do not have adequate waste water treatment facilities.

The bill that is before the Senate today will provide Federal and State environmental agencies with the tools they need to significantly reduce the discharge of toxics into the Nation's waterways.

Even in small quantities, pollutants like arsenic, lead, and PCB's threaten human health and environmental quality. In Colorado, the release of toxic chemicals such as these from mining sites is polluting major rivers and killing fish for miles downstream. This bill will strengthen the ability of Colorado officials to clean up these pollution sources. Once we have done that, we can reintroduce trout and other fish to the rivers, while reassuring downstream communities that their drinking water supplies are safe.

This bill also establishes a new Federal-State program to control pollution from diffuse sources such as city streets and open farmland. While the effect of this so-called nonpoint source pollution may not be immediately evident, the pollution accumulates in lakes, reservoirs, and estuaries and causes serious environmental problems. In fact, many experts have said that these nonpoint sources account for nearly half of all water pollution. The bill before us will give the States and the Environmental Protection Agency a mandate to address this serious problem.

H.R. 1, to reauthorize and strenthen the Clean Water Act, will enable Colorado and other Western States to protect their water resources, their environment, and their economies. This is a good bill, Mr. President, and I urge its swift passage.

PROPOSED UNANIMOUS-CONSENT REQUEST

The PRESIDING OFFICER (Mr. WIRTH). The Senator from West Virginia.

Mr. BYRD. Mr. President, the distinguished Republican leader and I and others on both sides of the aisle have been discussing a time agreement which will allow for the distinguished Republican leader to call up an amendment equivalent to the bill which presently is on the calendar and is shown as S. 76. The agreement if entered into, will allow the Republican leader to such an amendment properly styled so as to conform to the requirements of its being a substitute amendment or an amendment in the nature of substitute for the House bill.

He would call his amendment up at around 2:30 p.m. today and debate would proceed thereon. If the agreement is entered into, there would be no amendment in order to the Republican leader's amendment. He would have modified it in certain ways which we have already discussed and which we will discuss further in a moment.

He would call up the amendment around 2:30 today. There would be no votes thereon today. The Senate, then, when it has concluded its business today, would go over until Friday. The Senate would come in at noon on Friday, for the purpose of having routine morning business, introduction of bills and resolutions, statements by Senators and so on, with no rollcall votes on Friday, with the Senate then going over until Tuesday next. This would be in conformity with the schedule already announced, Monday being a national holiday.

On Tuesday next, the Senate would come in at 2 o'clock. On that day, we could work out an agreement for the control of time, so that time would be equally divided and controlled on that day, Tuesday afternoon, with no rollcall votes that afternoon, with one exception. If it is necessary in order to get a quorum and we have to have the Sergeant at Arms proceed to help establish a quorum, we might have to have a rollcall vote, but hopefully not.

Then, the Senate, on Wednesday, would proceed at 4 o'clock in the afternoon to vote on the amendment by Mr. DOLE, as modified, without any motion to commit being in order and with a vote to occur on final passage of the House bill, H.R. 1, as amended, if amended—hopefully it will not be amended—but with that vote to occur immediatately without any intervening action. So that, indeed, there would be two rollcall votes back to back beginning at 4 o'clock Wednesday afternoon. Then, immediately following action on H.R. 1, the Senate would take up a concurrent resolution, which would contain the substance of House Concurrent Resolution 24. There would be a short time agreement on that resolution, which would be part of this overall agreement, with no amendments thereto and no motion to recommit.

That is, in broad form, what the agreement would accomplish if it is entered into. I have not proposed the agreement, but I am ready to do so, if no Senators have any questions concerning the general outline of the agreement and what it would accomplish.

Mr. WILSON addressed the Chair.

The PRESIDING OFFICER. The Senator from California.

Mr. WILSON. Thank you, Mr. President. If the majority leader would yield for a question, as he has indicated he is prepared to do, I do have a question that I would ask him to entertain.

This morning, I made a speech during morning business indicating my intention to introduce an amendment to the Clean Water Act that would disapprove the proposal by the President for congressional pay raises. I am obviously very much concerned that we have the opportunity to vote on that question within the 30 days after receipt of the President's proposal. I have the amendment to the Clean Water Act that I intended to introduce.

My question, very simply, is that the agreement which the majority leader has just described would, of course, preclude any other amendments than that being offered by the distinguished Republican leader. What assurance do those like me and, I think, Senator THURMOND, who has a similar measure, although it is broader in scope, what assurance do we have that, if we do not seek to amend the Clean Water Act, there will, in fact, be an opportunity for this body to register our disapproval prior to the lapsing of the 30 days?

Mr. BYRD. Mr. President, the distinguished Senator from California has posed a pertinent question. I can understand his concern and I will attempt to provide him with assurance at this point.

I hope that the clean water bill, H.R. 1, will not be amended in any form, so that the bill may go directly to the President for his signature. Therefore, I have to state at the beginning that I am opposed to any amendment to the bill.

The Senator is quite right, if the agreement is entered into, there will be no amendment in order except the amendment by Mr. DOLE.

I can assure the Senator—and without any reservation I will assure him—that if no amendment is offered dealing with the recommended salary increases to the clean water bill, the Senate will have an opportunity to vote on that matter within the 30-day time period.

Anticipating that the Senator or a Senator might want assurance on this point, I discussed earlier this morning with the distinguished chairman of the committee which would have jurisdiction over that subject matter—and I have reference to Mr. GLENN—the fact that I was pursuing a time agreement and that this question might come up; if not the question, an amendment might be offered. Senator GLENN is in agreement with me that there will be a vote and there should be a vote on the subject matter that the Senator has raised. The Senator from California may rest fully assured that the Senate will have the opportunity to address that matter within the time period that is allowed under the law. Therefore, I hope that the Senator will not offer his amendment to this bill.

Mr. WILSON. Mr. President, let me say to the distinguished majority leader that his personal assurance would be quite good enough for me if he is able to include within that assurance that it is possible, given his knowledge of the rules and his skill as a parliamentarian, to overcome any possible objection that some Senator, unbeknownst to him at this present moment, might pose by interjecting the withholding of unanimous consent. Is there a means whereby we can be assured that this question will be put to a vote that does not depend upon unanimous consent?

Mr. BYRD. Mr. President, I can give the Senator assurance that a vehicle can be brought before the Senate without debate on proceeding thereto, and the Senate, therefore, will have an opportunity to address the subject matter and it will be my intention to see that that is done. Senator GLENN was in no position today to say what action his committee will take. He will be discussing that, I am sure, with other members of the committee. The committee may bring out a resolution or it may not. If it does not, and all other efforts fail, we have rule XIV available. And I can assure the Senate that rule XIV will be utilized if it is the last resort.

A motion can be made at the proper time that is not debatable. The Senate then would vote on taking up a resolution which by then will be on the calendar. When the resolution is called up before the Senate it is open to amendment just like any other resolution.

Mr. WILSON. I thank the majority leader. I do appreciate his taking the time to be specific in terms of the options that are available. I think it is important that we understand it as precisely as possible because it is an important question.

Based on the assurance that he has given me—and I know his word is good, and his knowledge of the rules is just as good—I will not, as I had intended, offer this amendment at this time nor will I withhold consent to his proposed request.

Mr. BYRD. May I say in responding to the distinguished Senator that the distinguished Republican leader has already gone into this matter very carefully with me. And this is one of the questions that he raised on behalf of his colleagues on that side of the aisle. I gave the Republican leader the same assurance, and I am confident that he will help me in every way to carry out the promise that I have just committed myself to; namely, that we do get a disapproval resolution on the pay raise recommendations up before the Senate. So my commitment will have been kept.

Mr. WILSON. I thank the majority leader. I appreciate his gracious comments. I thank the Republican leader for his acting as good shepherd on behalf of myself and the other Senators who are interested in this question.

Mr. DOLE. Mr. President, will the distinguished majority leader yield?

Mr. BYRD. Yes. I yield. I yield the floor, Mr. President. I have not yet proposed the request. But I will shortly, after the distinguished Republican leader has yielded the floor.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Republican leader is recognized.

Mr. DOLE. Mr. President, I have listened carefully to the distinguished majority leader. I think his presentation takes care of the discussions we had earlier. It covers, I think, every aspect of it. I am pleased that there will not be other amendments either to the bill or to the substitute. The substitute would be a bit different from what I introduced earlier. I have shown both the distinguished Senator from Maine and the majority leader those changes.

There are four or five projects to be added plus a technical correction that would affect a project in Kansas. I think those are the only changes that are made in the substitute. I would be prepared to offer that substitute I hope by 2:30, no later than 3 o'clock today. I am prepared based on the informal description whenever the majority leader is ready to agree that we ought to get the agreement.

UNANIMOUS-CONSENT AGREEMENT

Mr. BYRD. Mr. President, I thank the able Republican leader. I, therefore, now shall propound the unanimous-consent request.

Mr. President, I ask unanimous consent that the distinguished Republican leader proceed not later than 3 o'clock today to offer, as an amendment to H.R. 1, S. 76 which was put on the calendar by Mr. DOLE as modified—and the modifications will be identified by the distinguished Republican leader in a moment precisely for the record—and that he be authorized to call up his amendment properly styled so as to conform with the requirements of a complete substitute or an amendment in the nature of a substitute—because it is on the calendar now as a bill;

That there be no amendments in order to the amendment by Mr. DOLE;

That there be no other amendments in order to the bill, H.R. 1;

There be no motions to table the amendment offered by Mr. DOLE; and

That the Senate upon its completion of business today adjourn over until the hour of 12 o'clock noon on this coming Friday;

That no action occur on the amendment or the bill on Friday except that debate may ensue thereon;

That the Senate on the completion of its business on Friday adjourn over until Tuesday next at the hour of 2 o'clock p.m.;

That on Tuesday the Senate operate under controlled time for debate on the measure and on the Dole amendment which would be pending;

That such controlled time be determined by the distinguished Republican leader and myself after discussions with the managers involved;

That a vote occur on the amendment by Mr. DOLE, as modified—in accordance with the identifications that will be made shortly—at 4 o'clock p.m. on Wednesday; that a vote occur immediately, then, thereafter on H.R. 1, as amended, if amended, without any intervening action or further debate;

That no motions to commit or recommit be in order whether with instructions or otherwise;

That there be no time on any motion to reconsider the vote on H.R. 1;

That paragraph 4 of rule 12 be waived;

That upon the disposition then of H.R. 1, as amended, if amended, the Senate proceed immediately without any intervening debate or motion or point of order, to a concurrent resolution, the substance of which would be as shown in House Concurrent Resolution 24;

That on such concurrent resolution there be a time limitation of 20 minutes to be equally divided and controlled between Mr. MITCHELL and Mr. CHAFEE;

That no amendment be in order to the concurrent resolution;

That no motion to commit with or without instructions be in order.

Mr. President, I think the agreement that I have proposed covers all the bases. If the distinguished minority leader would not mind at this time before the agreement is entered into, he could identify for the record the modifications that he has sent to the desk, and which would be in the amendment which he will call up no later than 3 o'clock today.

Mr. DOLE. Mr. President, I thank the distinguished majority leader. I think the agreement propounded does express the intent of both the Republican and Democratic leaders. S. 76 was the substitute or the bill I introduced which at that time I think I indicated in my statement was offered as a substitute.

I modified S. 76 in the following ways: section 212, certain improvement projects; section 215, the Chicago Tunnel and Reservoir project; section 521, San Diego, CA; section 522, Oakwood Beach project in New York; section 525, Boston Harbor and adjacent waters; section 524, waste water reclamation demonstration; section 525, Des Moines, IA; section 526, study of de minimis discharges; section 527, amendment to the Water Resources Development Act.

Those modifications have been shown to both the distinguished Senator from Maine, Senator MITCHELL, and the distinguished majority leader. What has not been given them is the amendment to the Water Resources Development Act. That concerns a project in Kansas.

Mr. MITCHELL. Will the distinguished Senator yield for a question?

Mr. DOLE. I am happy to yield.

Mr. MITCHELL. Section 212, entitled "Improvement Projects," as I understand it is identical to the similar section in S. 1. If I might now state for the record the specific projects which are included within the general category of approved projects to confirm their identical nature, those are specific projects in Avalon, CA; Walker and Smithfield Townships, PA; Taylorsville, KY; Nevada County, CA; Wanaque, NJ; Lena, IL; Wyoming Valley Sanitary Authority, PA; and Altoona, PA.

Mr. DOLE. Correct.

Mr. MITCHELL. I thank the Senator.

Mr. DOLE. If the Senator will yield, he had a question on sections 5 through 7. That will be the technical correction related to a project in Great Bend, KS.

Mr. BYRD. Mr. President, two further provisos with respect to the concurrent resolution, being namely these: that there be no time for debate on any motion to reconsider the final vote on that concurrent resolution, and, furthermore, that no motion to table that concurrent resolution be in order.

Mr. HUMPHREY. Mr. President, reserving the right to object.

The PRESIDING OFFICER. The Senator from New Hampshire is recognized.

Mr. HUMPHREY. I want to express concern about the pay raise situation. It seems to me that if the Senate agrees to the unanimous-consent request as it now stands, we might well be giving the House an opportunity to avoid a vote altogether on the pay raise issue. If we attach the matter to the Clean Water Act as proposed by Senator WILSON, then the House would be forced to vote on it. If instead, to accommodate other matters, we agree to this request and Senator WILSON is foreclosed from offering his amendment on the promise that it could be brought up as a separate matter, then the House will obviously have the opportunity of just ignoring it, and the pay raise will go into effect automatically. What is the date?

Mr. WILSON. February 5.

Mr. HUMPHREY. February 5.

I am sorry I was not here for the whole discussion. Was there a stipulation of by what date would the free-standing resolution be brought up?

Mr. WILSON. Will the Senator yield?

Mr. HUMPHREY. Yes.

Mr. WILSON. The Senator is correct. The date on which this would become effective, as I understand, would be February 5. In the hypothetical situation that he poses, were that to actually occur, it is my understanding that it is possible thereafter to bring an amendment to any other legislation that could undo the enactment of that pay increase. I will tell the Senator from New Hampshire right now that if necessary I will undertake that, I am sure with his support and the support of others. I quite agree that the preferable way to go about this is to not let it become law, rather than having to subsequently undo it. But that option is available if the House approves.

Mr. HUMPHREY. I will make a point in response to that, that the House in having the opportunity to ignore such a resolution would have even more motivation to do so inasmuch as the money is in the bank, so to speak.

Has the majority leader indicated by some date certain that he would support the offering by some date certain of whatever it takes to block this automatic measure? Has that been discussed?

The clock is running. We have been asked to give up our very best opportunities today. The clock will continue to run. It will be harder and harder to undo this thing. It is not really a humorous matter. It may very well involve a constitutional issue. I believe it does. I have joined in a lawsuit on that basis. It is backdoor and in my opinion not the legal way to raise the pay of Members of Congress. That is my opinion.

I guess I have to defer to Senator WILSON on this but it would be helpful for me to know that by some date certain the leadership will support the resolution or whatever it is going to take to block or rescind the pay raise.

Mr. BYRD. I am not sure that I can say today just when that matter would be before the Senate. I have talked with Senator GLENN, who is chairman of the Government Operations Committee. This is a matter that comes within the jurisdiction of that committee. I will be talking with him further.

I can assure the Senator that the Senate will vote on the matter. I made that statement publicly when I was on television not too long ago with the distinguished Republican leader. I made that commitment to the people. I have renewed that commitment here today. I cannot say that it will be done by tomorrow or next week, but it will be done certainly within the period as set forth by the law.

Mr. HUMPHREY. I wonder if the majority leader will permit me to consult with the Republican leader before the Chair rules on this request.

Mr. President, I withdraw my objection.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request made by the majority leader? The Chair hears none.

Without objection, it is so ordered.

Mr. BYRD. Mr. President, I thank the Republican leader for his cooperation in working out this time agreement. I thank Senators MITCHELL, CHAFEE, BURDICK, STAFFORD, and all other Senators who have had a part in this matter. I thank Senator WILSON and Senator HUMPHREY for their cooperation.

The text of the agreement follows:

Ordered, That during the consideration of H.R. 1, an act to amend the Federal Water Pollution Control Act to provide for the renewal of the quality of the Nation's waters, and for other purposes, the only amendment in order be a substitute amendment offered by the Senator from Kansas [Mr. DOLE], against which no motion to table be in order: *Provided,* That on Friday, January 16, 1987, the bill be considered for debate only, with no action permitted thereon: *Provided further,* That upon resumption of the bill on Tuesday, January 20, 1987, time for debate be controlled as determined by the majority and minority leaders: *Provided further,* That a vote occur on the amendment at 4 p.m. on Wednesday, January 21, 1987, followed immediately thereafter by a vote on H.R. 1, as amended, if amended, with no intervening debate or action, no motion to commit with or without instructions, and no debate on a motion to reconsider to be in order: *Provided further,* That rule XII, paragraph 4, be waived.

Ordered further, That immediately upon the disposition of H.R. 1, the Senate proceed without intervening debate or motion to the consideration of a concurrent resolution containing the substance as shown in House Concurrent Resolution 24 and that there be 20 minutes of debate thereon, to be equally divided and controlled by the Senator from Maine [Mr. MITCHELL] and the Senator from Rhode Island [Mr. CHAFEE]: *Provided,* That no amendments, no motions to table, no motions to recommit the resolution, and no debate on a motion to reconsider the resolution be in order.

ORDERS FOR FRIDAY, JANUARY 16, 1987

ROUTINE MORNING BUSINESS AND CONSDERATION OF H.R. 1

Mr. BYRD. I ask unanimous consent that when the Senate comes in on Friday under the agreement, following the two standing orders for the recognition of the leaders, and following any other special orders that may be entered into in the meantime, there be a period for the transaction of routine morning business for not to exceed 1 hour and that Senators may be permitted to speak during that morning business, not withstanding the rule to the contrary, for not to exceed 5 minutes each; and that at the conclusion of morning business or no later than at the conclusion of the morning hour, whichever is the earlier, the Senate resume its consideration of the House bill, H.R. 1, and the amendment which will be then pending by Mr. DOLE.

The PRESIDING OFFICER (Mr. ADAMS). Is there objection? Without objection, it is so ordered.

NO RESOLUTIONS UNDER THE RULE—WAIVER OF CALL OF CALENDAR

Mr. BYRD. Mr. President, I ask unanimous consent that on Friday of this week, at the conclusion of routine morning business, no resolutions come over under the rule and that the call of the calendar under rule VIII be waived. I make the same request with regard to procedures of the Senate on Tuesday next.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 3 P.M. TODAY

Mr. BYRD. Mr. President, I ask unanimous-consent that the Senate stand in recess until the hour of 3 p.m. today.

There being no objection, the Senate, at 2:05 p.m., recessed until 3 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. SHELBY].

WATER QUALITY ACT OF 1987

Mr. MITCHELL. Mr. President, the distinguished minority leader has just entered the Chamber. He is ready to present his substitute amendment.

AMENDMENT NO. 1

Mr. DOLE. Mr. President, I send an amendment to the desk in the nature of a substitute in accordance with the unanimous consent agreement and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Kansas [Mr. DOLE] proposes an amendment in the nature of a substitute numbered 1.

Mr. DOLE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The text of the amendment is printed in today's RECORD under amendments submitted.

Mr. DOLE. Mr. President, I will just take a few moments at this time to touch on the substitute. As I understand from the agreement, there will be additional time for debate. We might do that maybe on Friday or maybe on next Tuesday or Wednesday.

Mr. President, this is the 100th Congress, a very important Congress. The

Democrats have the majority. As I have done many times, I congratulate them on their splendid victories last November, particularly of our distinguished chairman, the Senator from Maine, the chairman of their campaign committee, who played a vital role in that election.

Being in the majority, the Democrats will have the right to select the only bill to be numbered S. 1 and to select the first bill for floor consideration. They have chosen a good topic and a good issue—clean water.

The debate today is not whether any Senator, I assume, is for or against clean water. Both the administration's proposal and the bill vetoed last year make credible advances in improving water quality.

AFFORDABLE

The question before the Senate comes down to what we can afford, what we can afford with record deficits, and the one staring us in the face in this year of 1987 and beyond.

The construction of waste water treatment facilities—primary, secondary, and tertiary treatment facilities—is an extremely costly proposition. There is no question that many times the $12 billion or even $18 billion could be wisely spent for this construction. The question is, can we afford it?

Why are we stopping at $18 billion in S. 1? Why not go for $20, $30, or $100 billion? The why is that we simply cannot afford it.

Last year, the administration simply took itself out of the debate. The $6 billion it was prepared to accept was simply too low. But before anyone decides the administration is still not a player, take at least a cursory view of the offer this year.

ADMINISTRATION BILL

The President has met us half way on money, increasing the acceptable level from $6 billion to $12 billion, or half way between the original $6 and our $18 billion. The President has agreed to our environmental and regulatory provisions. And, the President has agreed to meet us more than half way on extending the authorization, offering 7 years as opposed to our 8 years.

It is a dramatic improvement, it is credible and I would hope it might be acceptable. This substitute responsibly addresses water quality and proposes a responsible Federal portion of the cost of water quality.

The amendment I am proposing does modify the administration's proposal in two ways. The special projects identified by the conferees after almost countless months of negotiations are protected by this substitute. A prime example of this is the so-called San Diego/Tijuana project that will help clean up pollution flowing into the United States from Mexico. This problem was not created by the State of California or local communities, and it seems only fair not to force them to pay the cost of the cleanup.

It also contains a technical correction to Public Law 99-662, the Water Resources Development Act that passed last October. As a result of an unintentional error in the drafting with regard to cost sharing, local communities are responsible for railroad relocations This was intended to be an exception, and the language contained in this amendment would make that correction. The Environment and Public Works Committee is already aware of this error and hopes to make the same correction bill later this year. As a result of this omission in the language of H.R. 6, which passed in the 99th Congress, the community of Great Bend, KS, would be responsible for an additional $5 million as part of its local cost share, which is beyond the city's financial reach.

DIFFERENCES

There are a few important differences in the two proposals. The first is the issue that we have all heard the most about—money, about 6 billion dollars worth of money. I do not have an amendment here for a balanced budget amendment to the Constitution or on the Gramm-Rudman-Hollings fix—maybe I should. I have not seen anything in S. 1 that repeals Gramm-Rudman-Hollings, the targets are still law, as far as this Senator knows. This is $6 billion that will not be available for other worthy causes—education, health, the homeless, defense, and many others.

Another important difference is the nonpoint source pollution program. S. 1 proposes Federal land use planning. My substitute leaves it to the States. I am not certain I want the EPA Administrator to tell my farmers what and where to plant. Maybe the Secretary of Agriculture has not done a good job at it, but I am not sure the solution is to let EPA do it.

The substitute does save $400 million by requiring nonpoint source projects be funded through the State allotments—at the discretion of the States. It also saves money in the establishment of revolving loans by the States. However, like the nonpoint source provisions, the revolving loan program in the bill provides greater discretion to the States.

The substitute is also able to ratchet down on outlays by paying bills when they are due, not before. The so-called payment schedule allows us to reduce deficits, not by reducing authorizations but by imposing good fiscal sense. It may be that those who support S. 1 would want to make this change to their bill—I don't know, but it would be a good improvement.

As we rush to judgment, let me also remind my colleagues of another extremely important matter in S. 1—the Louisiana gypsum matter. The entire Louisiana delegation—both in the Senate and in the House—supports a new compromise to this potentially devastating situation. Originally, at the request of Representative BOB LIVINGSTON of Louisiana, I included the compromise in this substitute. Now, however, I understand we will consider a concurrent resolution to correct this problem.

The House is scheduled to consider a resolution—House Concurrent Resolution 24—to make this change during the enrollment of the bill. But the House will not get to the resolution until next week. If we were to act today without amending the bill, we risk the potential of worsening water quality. All the amendment says is no special breaks—grandfather this issue as it was.

Mr. President, I have certainly taken into account the votes. Last year, as I recall, it was unanimous in both the House and the Senate. Just last week, the House, by an overwhelming vote, passed the same bill that passed last year unanimously. I think there were eight negative votes against the so-called clean water bill. So I harbor no delusions about an overwhelming victory for the substitute.

I am going to vote for it. I think it is responsible. I think it does at least indicate that the first bill we consider in the U.S. Senate is being looked at very carefully, not just by the administration but by those of us who are concerned about the ever-growing Federal deficit.

Will the substitute prevail? It is doubtful. But at least in my view, if we have enough opportunity, and we will have, and I hope we could postpone additional debate until that time, I would like very much to discuss in greater detail the substitute on Tuesday, maybe again on Wednesday before the final vote. I hope by that time, there may be other of my colleagues who will be prepared to do the same.

I am suggesting as I stated, that I believe the administration has come a long way. I share the view expressed by the majority leader this morning. This is not an effort to embarrass the administration. There was some question earlier whether we would rush to this vote before the President's State of the Union Message to force the President to veto it, to embarrass the President. That will not happen. Under the unanimous-consent agreement, the President will still have a number of days after the State of the Union Message before he makes a determination whether or not to veto.

I understand those who support the bill that passed last year want no changes. It took a long, long time to reach the stage that they reached. They do not want to go back to conference, do not want any amendments. I guess I can understand that, having

had that responsibility as a committee chairman. So I hope that we could begin this session with a strong vote on a substitute.

As I have said, there is no doubt the administration has come a long way. If it is a question of money, we have gone from $6 billion to $12 billion. Some believe it ought to be $18 billion. I guess overall, there has been a lot of progress made in the past several months.

I thank the distinguished Senator from Maine and I thank the distinguished majority leader. I do look forward to discussing this in greater detail later.

● Mr. GRAHAM. Mr. President, I would like to emphasize the need to approve H.R. 1, the Clean Water Act. The administration amendment authorizes only $12 billion for the sewage contruction treatment grants program through 1994. This represents a decrease of $6 billion from the $18 billion authorization in the clean water bill before us today. Florida's sewage construction needs alone will surpass $3 billion by the year 2000. Under H.R. 1, Florida is to receive $532.5 million for construction treatment through 1994. With this amount falling far short of our State's needs, we cannot afford to decrease national authorizations further, as the administration proposal suggests.

The proposed $18 billion authorization level includes sewage treatment revolving loan fund set-asides in the Clean Water Act. The administration amendment does not include these set-asides, thus eliminating Federal assistance to the States prematurely without an appropriate period of transition.

Since States are being asked to take on a greater share of the burden in many funding areas, it is important that Federal assistance for these programs be phased out gradually. In this way we can ensure that vital environmental protection efforts will not be abruptly terminated or scaled back so drastically that they are no longer effective.

The State/Federal partnership in the protection of our clean water is vital to the Nation. Federal capitalization grants with which to start up State revolving loan funds will give States the capability to continue funding sewage treatment on their own.

Major growth States such as my home State of Florida, are particularly vulnerable to problems of pollution and the sensitivity of finite natural resources. Florida is now the fifth most populous State in the Nation and is predicted to be third largest by the end of this century. Sewage treatment and the protection of clean water are very real concerns in Florida.

Given the planned phase-out of the construction treatment program under H.R. 1, the States will be provided an adequate transition period in which to increase fiscal capabilities to make these programs their own. States and localities must be given the capacity to absorb full responsibility of sewage treatment funding. H.R. 1 accomplishes this.

In 1970, as a member of the Florida House of Representatives, I worked to pass a bill which gives the State authority to set up revolving loan funds. Florida also has a grants program which funds about 45 percent of sewage treatment construction for small communities.

However, the State does not have the fiscal capacity to grant money for such large scale projects to major cities, nor to adequately build up a revolving loan fund which could keep pace with Florida's growth. For many of Florida's most vibrant communities, the kind of Federal/State partnership those setaside moneys represent is the difference between access to a system of water quality control and unnecessary degradation of the environment.

We in Florida care deeply about clean water and the complex ecosystems which provide it. We take seriously our stewardship of the lakes and rivers and bays and coastal fisheries which define our State. As Governor of Florida, I issued an executive order to direct the cleanup of Lake Okeechobee. This executive order assumes Federal participation in the Lake Okeechobee cleanup project. Such continued participation is critical to the long-term health of Federal investments, particularly Everglades National Park. The beauty of Florida is an attribute we are proud to share with the Nation and with visitors from all over the world.

We can cite several examples of effective sewage treatment projects in Florida. In Orange County, the Lake Tohopekaliga facility was discharging 40 million gallons of effluent daily into the lake. The effuent is now being spray irrigated, relieving the lake entirely of that daily pollution.

The Iron Bridge Sewage Treatment Plant near Orlando was converted to an advanced waste treatment system which sanitizes over 23 million gallons of effluent a day.

The St. Petersburg plant discharged 49 million gallons a day into Tampa Bay—and the bay was rapidly dying. With the use of spray irrigation, Tampa Bay's water quality has dramatically improved and the marine life is coming back.

In general, our monitoring of the State's 12,000 miles of streams shows a discernible improvement in 887 of those miles and a maintenance of constant levels in 7,000 miles of streams threatened by pollution from rapid-growth communities. Much of this prevention and improvement is attributable to decreased sewage effluent into the State's lakes and streams.

Particularly in Florida, the existence of urban communities is directly dependent on the continued vigor of large and complex freshwater systems. We appreciate the care we must take to shield those systems from the damage rapid growth can generate. And other areas of the country are no less concerned for the quality of their water.

Very briefly, I would also like to mention the administration's exclusion of nonpoint source pollution program authorizations. The authorization in the clean water bill of $400 million in State grants is necessary to further prevent the degradation of our Nation's waters from nonspecific sources of water pollution, such as runoff from fields and parking lots. Many States do not have a nonpoint source program in place. Florida is fortunate to have an existing nonpoint program; however, funds are only available to issue permits for new nonpoint source discharges. Existing discharges are exempt from the permit process merely because the funds are not available. Nonpoint source discharges are a major source of water pollution, and must be addressed if we are to preserve our water quality.

In light of the water quality protection needs of the State of Florida and the United States as a whole, I urge my colleagues to vote "no" to the administration amendment thus casting a "yes" vote for an unamended Clean Water Act reauthorization.

Mr. MITCHELL. Mr. President, the distinguished minority leader has submitted his proposed substitute amendment and suggested, appropriately in my judgment, that further debate occur on next Tuesday and Wednesday prior to the vote on the bill. I would like now to make a brief statement as we evaluate the substitute and the legislation itself. I think it is important, in order to do that, that we go back and look briefly at the history of the Federal Water Pollution Control Program, with specific reference to the events that occurred early in this administration.

In 1948, the U.S. Government began, for the first time, a national program to control pollution into our Nation's waters and to clean up those waters. The American people were disgusted and sickened by the fact that most major rivers in this country had become stinking, open sewers, not suitable for swimming, fishing, or boating. Indeed, in many cases you could smell an American river long before you could see it.

From 1948 to 1972, a modest Federal program existed in an effort to stem the tide of water pollution, with limited success.

In 1972, Congress passed what is the modern version of the Clean Water Act, which significantly increased the

Federal effort and as a result significantly increased the degree of success that was occurring in cleaning up our Nation's water. As a result of that legislation, Federal investment in clean water rose dramatically, reaching a peak of $5 billion a year in 1979 and 1980.

The results of course are there for everyone in the country to see. There is not a State in this Union that has not experienced, not one or two but several bodies of water which have been cleaned up as a result of this program, where Americans can now fish, swim, or boat and use what are public properties for public purposes. This is, in fact, one of the most spectacularly effective Federal programs ever instituted.

In 1981, shortly after taking office, President Reagan proposed that there be no further funding for this program. He said to the Congress, "I do not want any more money for clean water in this country unless you reduce the size of the program, reduce the scope of the program, and reform the program."

And so in 1981, this Congress and the Senate Committee on Environment and Public Works, which had jurisdiction, on which I served and which was chaired by the distinguished Senator from Vermont, responded to the President's request. At the President's request, the level of funding for the Clean Water Program was reduced from $5 billion a year to $2.4 billion a year, less than half of what it was. At President Reagan's request, Congress reduced the types and numbers of projects which were eligible for Federal funding. And at the President's request, Congress reduced from 75 to 55 percent the Federal share of those projects which remained eligible for Federal assistance.

So the Congress responded directly to the President's request in major ways: Reducing the level of funding, reducing the types of projects eligible for Federal assistance, and reducing the amount of Federal assistance for each project.

In exchange for that, the President and his administration agreed to continue to support funding for the Clean Water Program for 10 years at a level of spending of $2.4 billion a year. That was the President's agreement. I wish to quote now from the words of the administration spokesman on these matters, the then Administrator of the Environmental Protection Agency, William Ruckelshaus, whom the President, when he introduced him to the country, praised, saying he would be the administration spokesman. This is what Mr. Ruckelshaus said in public at a hearing before the Congress.

There is an understanding, there is an agreement with the administration, with Congress that for 10 years this level of funding at least is a commitment. We went down to $2.4 billion as a result of that commitment.

Those are the words of the President's spokesman on this issue. He said, "There is an understanding, there is an agreement, there is a commitment."

And so, Members of the Senate, President Reagan's veto of this bill last year and this substitute amendment today initiated by the administration is a breach of that understanding; it is a violation of that agreement; it is a reneging on that commitment. Now we have a substitute which says we will propose a level of spending that is in each of the 8 years covered by the substitute amendment lower than the amount to which the administration made a solemn commitment just a few years ago.

Based on that record, what Member of this Senate can now accept the administration's word regarding the 8 years in the substitute agreement? Who here believes that 8 years would elapse before the administration would come back again and propose a new termination, a new reduction, a new violation of a solemn agreement, understanding, and commitment, all words used not be me, not be any other proponent of this bill, but used by the spokesman for the administration on this matter.

The fact is, of course, this is a lot of money, but the American people have made it overwhelmingly clear they want clean water, and they are prepared to pay the cost of clean water.

The fact is, while we are on the subject of money, the President, who says we cannot afford clean water, who said in effect, "I cannot afford to keep my word to you, the Congress and the American people," is proposing in the very same budget a massive, multibillion dollar increase in foreign aid. The President proposes to spend in 1 year on foreign aid nearly what the Congress wants to spend in 9 years to clean up our Nation's water.

Are those the priorities of the American people? I do not believe so. I believe that the people of this country want clean water. They have seen the remarkable success of this program to date, and they want it continued.

The irony of this whole matter is that the President could well and accurately have declared a victory with respect to the clean water program. The level of funding was reduced at his request. The type and number of projects eligible for Federal assistance were narrowed as a result of his request. The amount of Federal funding for each project was reduced at his request. And in exchange for doing all of that, the administration made a promise; it made a commitment. There was an agreement, there was an understanding, which the President now proposes to break. His veto said to the American people, "Although I made that agreement, although I made that promise, although I made that commitment, I am not going to keep them because we cannot afford it." Instead, what he wants to do is to have several billion dollars more going for foreign aid.

Well, I say, if the United States of America can afford to say yes to President Reagan's request for billions of dollars more for foreign aid, the United States of America can afford to clean up the waters of this country. We can afford to keep agreements that were made. We can afford to maintain understandings that were made, and we can afford to keep the commitment that was made.

On the subject of money, it should be made clear, as I will detail much more specifically in the debate on Tuesday, the amount of money in this bill is far less than the amount of money needed to actually clean up the Nation's water. It is itself a compromise. It is a significant compromise. Members of the committee, led by the distinguished chairman from Vermont, who is here today, and the distinguished chairman of the subcommittee, Senator CHAFEE, who was here earlier, were acutely conscious of the budget problems, and as a result we significantly reduced the amount of money in this bill, below that which is absolutely necessary to clean up the Nation's waters. We significantly reduced the amount of money which was proposed by the House of Representatives. We accepted a compromise. And all during those 2 years when we worked at this day after day, week after week, month after month, the President's position was "Nothing. No cooperation. No assistance"—simply taking a position of no new project starts and a $6 billion level of funding to complete projects underway, which everyone acknowledged was unrealistic.

So I say to my colleagues that we have compromised. I say to my colleagues that we have been concerned with the budget effects, and in fact this level of funding is within the budget resolution. The budget buster would be the multibillion dollar increase in foreign aid that the President proposes when he says that we cannot afford to spend this level of money to clean up the Nation's waters.

So I hope very much that the Senate will reject this substitute amendment, which really ought not be taken seriously, and proceed to enact this legislation again by an overwhelming margin.

I note the presence of my distinguished colleagues, so I will conclude by saying that there will be a further debate on Tuesday. There are many other reasons to oppose this substitute, which omits or undermines most of the major substantive improve-

ments in the bill, wholly apart from the question of money. I will discuss them in more detail on Tuesday.

I yield now to my distinguished colleague.

The PRESIDING OFFICER. The Chair recognizes the Senator from Vermont.

Mr. STAFFORD. Mr. President, with regret that the situation has developed the way it has, I rise in strong opposition to the amendment offered by my good friend and colleague, Senator DOLE, the Republican leader. It should come as no surprise that I do so, because this morning I made an extensive speech supporting H.R. 1.

My distinguished friend, Senator DOLE, would ask us to substitute this administration bill for a bill that Congress developed with over 4 years of work. The Committee on Environment and Public Works, which I was privileged to chair during the last three Congresses, labored many, many hours to bring before this body the bill that this amendment would seek to displace. The Clean Water Act conference bill was passed unanimously by both the Senate and the House last October.

Mr. President, every Member of this body who was here last year voted for the underlying bill, H.R. 1. Every Member voted for it. Why? Because it is a good bill and is very strongly supported by the American people and is needed by the American people.

In passing the clean water bill last fall, we recognized that it is time for the Federal Government to end the Construction Grants Program for sewage treatment plant construction. But we must end it gradually in order to prevent chaos, and we must provide for an orderly transition to a self-supporting State revolving loan fund. H.R. 1 does these things. The proposed amendment does not. It would shortchange the environment by lopping $6 billion off the amount that Congress decided unanimously last year is the minimum needed to phase out the program in an orderly fashion.

When we began the reauthorization of the Clean Water Act several years ago, there were many who did not want to see the construction grants program ended at all. That is not surprising, when you realize that there still is $100 billion of unmet need in this area, in this country. The President, on the other hand, wanted to see it ended almost immediately. Gradually, we were able to forge a compromise—a political consensus that the program should be ended over a period of several years, with a transition to revolving loan funds.

This political consensus was not easily achieved, but we did achieve it. As a result, the bill passed by the Congress last year was supported by all the interest groups: States, cities, environmental organizations, the construction industry, and others. Many of these people were not too happy about it, but they were willing to accept it as the best we could do. None of these groups would support abandoning the consensus bill in favor of an amendment that would reduce funding by an additional $6 billion, which is what the Republican leader's amendment proposes.

Mr. President, H.R. 1 represents the minimum acceptable commitment of Federal support. It is the final payment due on commitments made over the last 15 years. It represents a fair compromise among competing interests, and it is broadly supported. This body should stand by its product and support H.R. 1 by rejecting this amendment.

I very much regret that the President is putting this body through this debate. I believe this amendment will be defeated, and I believe that if the President again vetoes the Clean Water Act, his veto will be overridden. This Senator urged last fall that the President not pocket veto the bill. Many other Senators did the same, from both sides of the aisle. We were joined in this plea by individuals and organizations from all across the political spectrum and from all sides of the water pollution issue. This Senator stated then that a pocket veto would only lead to a political confrontation early in the 100th Congress, a confrontation that the President would not win.

Unfortunately, the President got some bad advice from his most senior advisers, with the result that today this body must again pass a clean water bill, and pass it over a veto if it comes to that.

This Senator would have preferred to have avoided this necessity, but now that it has been thrust upon us, this body must deal with it in the right way. I urge my colleagues to join me in putting the Clean Water Act back on track. Cast a vote for the environment. Vote "no" on this amendment, and then vote "yes" on the underlying bill.

The PRESIDING OFFICER. The Chair recognizes the Senator from Rhode Island.

Mr. CHAFEE. Mr. President, first, I should like to say that I applaud the statements of my distinguished colleagues—the former chairman, Senator STAFFORD, and the present chairman of the Environment Subcommittee, the Senator from Maine [Mr. MITCHELL]. Both have made powerful statements in connection with this piece of legislation.

Mr. President, I hope that the President will not veto this legislation. First of all, I think that the substitute as brought forth for the administration by our Republican leader does not do the job.

The programmatic changes are sufficient. In other words, as I understand his legislation, the parts dealing with water cleanup standards and with treatment of toxics are all the same as they are under H.R. 1. The major difference, of course, is in the amount that is provided.

The argument might be made: "We are trying to meet you halfway. We, the administration, had a bill for $6 billion." That was not accepted last fall, when we were doing this in conference. Indeed, as I mentioned this morning, this goes way back to 1985. The Senate bill was passed in June of 1985, and at that time, the administration had its $6 billion bill.

Now, in the spirit of comity, I suppose, they might be saying, "Well, you were at 18, we are at 6; we will meet you halfway at 12." The only problem with that is that amount is not sufficient to do the job; and H.R. 1, as was pointed out before, does not cover the situation perfectly—the $18 billion. There is no suggestion that that is going to meet all the problems of the Nation. The problems of the Nation are in excess of $75 billion.

H.R. 1 is a House-Senate bill, it is the conference committee report that, as has been said before, passed both Houses unanimously in October.

As I mentioned, the Senate passed its version in June of 1985. In July 1985 the House passed its version. Then it took us a long, long time to thrash out the differences, basically coming to the Senate bill.

We came down, at least the House did, and it is to their credit. They recognized the necessity to save what money is possible and so the total amount that is involved in this was some $7 billion less than the House bill.

Now, what is the matter with the difference between $18 and $12 billion? The difference of $6 billion is very, very important. And furthermore, this legislation provides not only that $2.4 billion that was agreed upon in 1981 when, as Senator MITCHELL previously said, we went through these very dramatic cuts in the program, and this was in response to the new administration that had come in and I had the privilege of being the chairman of that conference committee. The House was not enthusiastic about making these cuts, but we did them because we felt that the budget had to be brought under control. We did our part and, as I mentioned this morning and quoted from the testimony of Mr. Ruckelshaus, who was the head of the EPA at the time in 1984—he said yes, there was an agreement, $2.4 billion for 10 years, and that is what we have here.

Now, we extended a little bit longer but in that extra period we go into building this so-called revolving fund

which is for the States to cover the difference between $18 and $75 billion, which are the needs, and let the burden fall on the States at that time but they will have this revolving fund which will be extremely helpful.

So that is where we are. I feel badly. Obviously I do not think any Republican or Democrat, certainly Republicans do not like to go against the desires of an administration. There is a sense of reaching out and trying to reach an accommodation. And certainly no one likes to override vetoes of a President. He starts with plusses, he starts with our desire to cooperate, he starts with the realization that he has large responsibilities that sometimes we as individuals cannot fully recognize but at the same time we have responsibilities and we have the ability to see the problems of the Nation sometimes when he is not in specific sectors, such as this clean water area, where the President has a multitude of problems he has to pay attention to and perhaps cannot devote as much of his time to this matter as we have.

It is our belief that the wisest course of action is for the President to not only support this legislation but to applaud it and to say it is a good move, that, yes, you have made dramatic changes in 1981, you have scaled down the program and, furthermore, in this legislation you reach one of my, meaning the President's, views, that you are bringing the program to a close and that is something that I, meaning the President, have fought for, and we have provided that for him.

We bring the program to a close with the last appropriation—this is an authorization bill—but it is hopeful that the Appropriation Committee will follow us. The last amount provided under this bill is $600 million in 1994.

Although we mentioned it this morning, I am not sure everyone fully appreciates the changes that have been made in this Clean Water Act. In 1980 the total amount authorized was in the neighborhood of $5 billion, $5 billion in 1980 dollars, not in 1987 dollars. And we said all right, Mr. President, we will scale the program down to $2.4 billion.

That is a dramatic drop right there, cut in half, and we have not increased it a nickel since then, not a nickel for the construction grants program since 1981. And, clearly, the inflation factor has brought that down perhaps 30 percent, I am not certain, but the 1987 dollars no one will question are equal to 1981 dollars.

That is what has been accomplished, plus going to the revolving loan program.

So it is my plea, and this is a plea that I made to the White House when we finished this act. There were threats, suggestions of veto at the time, pocket veto, as we left here and I think it was around the 15th or 16th of October last year, and went home, having just passed this bill. This was one of the last acts we did here, sent it down to the White House and I called the White House and talked with the officials there and urged them to stress to the President that this is a good bill, it is a good bill not only in dollars but it is a good bill in what we call the programmatic features, that is the features that deal with what we are doing about cleaning up the waters of the Nation and urged that the President sign it then, and I did all I could as the chairman of our committee, the distinguished chairman, the Senator from Vermont [Mr. STAFFORD] did likewise, but unfortunately to no avail.

There is one other feature that I would like to mention before closing and trust we will get into this to a greater extent than we are now. We have started in on an area that we did not get into before which seems to me is vital for clean water and that is the so-called nonpoint sources.

It is pretty widely recognized the achievements we have made in point sources. Now what are point sources? Point sources are discharges from a factory, discharges from a municipal plant, and we have really made extraordinary achievements in that area.

But are our lakes and streams and rivers perfect? No.

What is the problem? You clean up the factories, you clean up the cities, municipals' discharges. Then why is everything not perfect? The problem is the so-called nonpoint sources.

Senator MITCHELL touched on this in his remarks this morning. We are talking about the flow from streets. We are talking about parking lots, the greases that accumulate there. We are talking about insecticides and pesticides that flow off from fields.

This bill starts tackling that problem. We do not solve it. The amount of money in there annually is limited, about $400 million over a 4-year period, but it's a start.

We are experienced enough to know that this is a very touchy area with the States and as soon as you bring up the phrase "land planning," it is a red flag to all municipalities, to all States. They do not want the Federal Government getting involved with that.

So we provide for the States to do it, to come up with a plan, and we have incentives in there for them to do it, and that is not beyond reason. They can do it, and I think they will do it.

As I mentioned this morning, one of our proudest achievements under this legislation over the years has been what is taking place in the Chesapeake Bay and that involved getting Pennsylvania, Maryland, Virginia, to do something about these nonpoint sources, and they have done that.

So, all in all, I share the pride of the members of the Environment Committee who have worked so hard on this, and as generously was stated by others, I was very active in this, and I think we have a good bill. It is never too late, I say to the administration, to come on join, jump aboard. This is not an exclusive party. It is very inclusive and there is no one we would rather have aboard on this train that is leaving the station than the President of the United States and there is room for him. We will make it the Reagan bill. Who has pride of authorship? I am certainly delighted to have this the Reagan bill. And there is room there for his signature. We will leave plenty of room for his signature at the end of this bill and I hope he will invite us all down for a big signing ceremony. That will be very nice and we could end with three rounds of cheers for the President in recognizing that this is good legislation and we hope he will come aboard.

Thank you, Mr. President.

The PRESIDING OFFICER. The Chair recognizes the Senator from Maine.

Mr. MITCHELL. Mr. President, I commend the Senator from Rhode Island on his remarks. He said that as a Republican he would, of course, not want to have to vote to override the President's veto, and I will just say that speaking for the Democrats we have the same view.

The President does not need this fight. We do not want this fight. The American people will not benefit from this fight. The American people want clean water. They overwhelmingly support this program. They overwhelmingly support this legislation. I hope very, very much that the President can see his way clear to signing this bill when it reaches his desk.

As Senator Chafee said, it is a bill that is in the interests of our country and will help continue the remarkable progress that has been made in this Nation over the past decade or two in cleaning up our Nation's water.

Mr. President, I suggest the absence of a quorum.

Mr. CHAFEE. Mr. President, will the Senator withhold?

Mr. MITCHELL. Yes.

The PRESIDING OFFICER. The Chair recognizes the Senator from Rhode Island.

Mr. CHAFEE. Mr. President, in case there is any confusion, and I am sure there is not, but while I do not want to get into a situation where we are overriding the President's veto, I do not want anybody to be under any illusions. If the President vetos this bill, I certainly will vote to override it. The happier situation would be not to have that occur. But if the situation comes up, as others have mentioned previously, I will vote to override the Presi-

dent's veto if he should veto this legislation.

I do not think there was any doubt about that, but I did not want any confusion.

I suggest the absence of a quorum, Mr. President.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. LEVIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. DIXON). Without objection, it is so ordered.

JAILED PRIEST IN SOUTH AFRICA

Mr. LEVIN. Mr. President, I want to bring to the attention of the Senate and the country an outrageous situation involving the Transkei, black homeland controlled by South Africa. The situation is this: Officials in the Transkei are holding in jail an American priest who has been working for years with the people of that area. For nearly a month, he has been held without charges. Since the Transkei was created by—and is now financed and maintained by—the Government of South Africa, the imprisoned priest, the Rev. Casimir Paulsen, is, in effect, a prisoner of South Africa.

Father Paulsen, who grew up in Michigan and has family there, is a member of the Marianhill Mission. He has been doing the work of his church in southern Africa for some 20 years. He is an outspoken critic of apartheid and other forms of injustice. And since December 17 he has been in custody in the Transkei, one of several homelands created for blacks under South Africa's policy of racial segregation.

Yesterday, after being told of this situation, I talked by telephone with United States officials in South Africa. I talked with our No. 2 official there, Deputy Chief of Mission Richard Barkley and with our consul general in Durban, Martin Cheshes. I talked again today with Mr. Cheshes. And so far today, efforts by our officials to see Father Paulsen apparently continue to be rebuffed by the Transkei. According to one press report, Transkei authorities say we must deal through South Africa.

Just a short time ago, I talked to the South African Ambassador here, Herbert Beukes. Mr. Beukes said he had been told that U.S. officials would be given access to Father Paulsen. Ambassador Beukes said he would convey my concerns to the proper authorities. And he said he would see what could be done to accomplish the release of Father Paulsen, and would get back to me.

Mr. President, I have heard speculation that South Africa, which created Transkei and continues to maintain it, is tolerating, if not encouraging the Transkei in this situation, to show resistance to U.S. efforts to end apartheid. I hope that is not the case. Americans will not readily tolerate any government depriving one of our citizens of his freedom without a trial.

I hope that South Africa will do the right thing in this situation. In the meantime, I have been encouraged by our own officials in South Africa to bring the situation to the attention of the world.

I hope our colleagues will join in urging that the government of South Africa use the power it has to gain freedom for Father Paulsen. Repeatedly in the past, we have seen what happens when Americans are used as barter for the objectives of other countries.

Mr. President, I yield the floor.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The minority leader.

Mr. DOLE. Mr. President, I ask unanimous consent to proceed out of order.

The PRESIDING OFFICER. Without objection, it is so ordered.

JANUARY 15, (1929): BIRTHDAY OF MARTIN LUTHER KING, JR.

Mr. DOLE. Mr. President, although we will celebrate a national holiday next Monday, January 19, in honor of the Rev. Dr. Martin Luther King, Jr., tomorrow, January 15, is the actual anniversary of his birth 58 years ago. Dr. King had little direct connection with the Senate—he testified only once before a Senate committee—but he was influential in the Senate's passage of one of the most significant pieces of legislation in this century—the Civil Rights Act of 1964. Therefore, I would like to commemorate Dr. King as part of my bicentennial minutes on the U.S. Senate.

In 1963, when civil rights legislation seemed hopelessly mired in Congress, Dr. King announced that he would lead a March on Washington. Many Members of the Senate and House expressed anger and concern that the March was intended to intimidate them into voting for the bill, and that it would turn violent and destructive. Even President Kennedy counseled against the demonstration. But Dr. King persisted, and on August 28, 1963, some 200,000 people arrived in Washington, where they marched peacefully to the Lincoln Memorial and heard Dr. King's now famous "I Have A Dream" oration.

The success of that march, and the massive, nonviolent protest Dr. King led against the institution of segregation, helped to break the resistance against the Civil Rights Act. As Senate Republican Leader Everett M. Dirksen declared when he announced his support, it was an idea whose time had come. The passage of the Civil Rights Act of 1964 effectively ended segregation in the United States. For this accomplishment, and a lifetime of achievement—as short as that life was—Dr. King was awarded the Nobel Prize for Peace in 1964. Four years later he died of an assassin's bullet, but his spirit and his inspiration will never die. In the Senate and in the Nation we honor his memory.

SUBCOMMITTEE ASSIGNMENTS, COMMITTEE ON APPROPRIATIONS, 100TH CONGRESS

Mr. STENNIS. Mr. President, the Committee on Appropriations held its organizational meeting today, January 14. Among other business conducted, the subcommittee assignments for the 100th Congress were approved and I submit for printing in the RECORD, a list of the subcommittees and the assignments for this Congress.

I ask unanimous consent that the subcommittee assignments be printed in the RECORD.

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

U.S. SENATE COMMITTEE ON APPROPRIATIONS

ONE HUNDREDTH CONGRESS

John C. Stennis, Mississippi, Chairman; Robert C. Byrd, West Virginia; William Proxmire, Wisconsin; Daniel K. Inouye, Hawaii; Ernest F. Hollings, South Carolina; Lawton Chiles, Florida; J. Bennett Johnston, Louisiana; Quentin N. Burdick, North Dakota; Patrick J. Leahy, Vermont; Jim Sasser, Tennessee; Dennis DeConcini, Arizona; Dale Bumpers, Arkansas; Frank R. Lautenberg, New Jersey; Tom Harkin, Iowa; Barbara A. Mikulski, Maryland; and Harry Reid, Nevada.

Mark O. Hatfield, Oregon, Ranking; Ted Stevens, Alaska; Lowell P. Weicker, Jr., Connecticut; James A. McClure, Idaho; Jake Garn, Utah; Thad Cochran, Mississippi; Robert W. Kasten, Jr., Wisconsin; Alfonse M. D'Amato, New York; Warren Rudman, New Hampshire; Arlen Specter, Pennsylvania; Pete V. Domenici, New Mexico; Charles E. Grassley, Iowa; and Don Nickles, Oklahoma.

SUBCOMMITTEE ASSIGNMENTS

SENATOR STENNIS

Agriculture and Related Agencies, Defense (Chairman), Energy and Water Development, HUD-Independent Agencies, Transportation and Related Agencies.

SENATOR BYRD

Defense, Energy and Water Development, Interior and Related Agencies (Chairman), Labor, Health and Human Services, Education, and Related Agencies, Transportation and Related Agencies.

SENATOR PROXMIRE

Defense, HUD-Independent Agencies (Chairman), Labor, Health and Human Services, Education, and Related Agencies, Military Construction, Treasury, Postal Service, and General Government.

SENATOR INOUYE

Commerce, Justice, State, and Judiciary, Defense, Foreign Operations (Chairman),

Labor, Health and Human Services, Education, and Related Agencies, Military Construction.

SENATOR HOLLINGS

Commerce, Justice, State, and Judiciary (Chairman), Defense, Energy and Water Development, Interior and Related Agencies, Labor, Health and Human Services, Education, and Related Agencies.

SENATOR CHILES

Agriculture and Related Agencies, Commerce, Justice, State, and Jiuiciary, Defense, Labor, Health and Human Services, Education, and Related Agencies (Chairman), Transportation and Related Agencies.

SENATOR JOHNSTON

Defense, Energy and Water Development (Chairman), Foreign Operations, HUD-Independent Agencies, Interior and Related Agencies.

SENATOR BURDICK

Agriculture and Related Agencies (Chairman), Energy and Water Development, Interior and Related Agencies, Labor, Health and Human Services, Education, and Related Agencies.

SENATOR LEAHY

Defense, Foreign Operations, HUD-Independent Agencies, Interior and Related Agencies.

SENATOR SASSER

Agriculture and Related Agencies, Commerce, Justice, State, and Judiciary, Defense, Energy and Water Development, Military Construction (Chairman).

SENATOR DE CONCINI

Defense, Energy and Water Development, Foreign Operations, Interior and Related Agencies, Treasury, Postal Service, and General Government (Chairman).

SENATOR BUMPERS

Agriculture and Related Agencies, Commerce, Justice, State, and Judiciary, Interior and Related Agencies, Labor, Health and Human Services, Education, and Related Agencies, Legislative Branch (Chairman).

SENATOR LAUTENBERG

Commerce, Justice, State, and Judiciary, District of Columbia, Foreign Operations, HUD-Independent Agencies, Transportation and Related Agencies (Chairman).

SENATOR HARKIN

Agriculture and Related Agencies, District of Columbia (Chairman), Foreign Operations, Labor, Health and Human Services, Education, and Related Agencies, Transportation.

SENATOR MIKULSKI

Foreign Operations, HUD-Independent Agencies, Legislative Branch, Treasury, Postal Service and General Government.

SENATOR REID

District of Columbia, Interior and Related Agencies, Legislative Branch, Military Construction.

SENATOR HATFIELD

Commerce, Justice, State, and Judiciary, Energy and Water Development (Ranking), Foreign Operations, Labor, Health and Human Services, Education and Related Agencies, Legislative Branch.

SENATOR STEVENS

Commerce, Justice, State, and Judiciary, Defense (Ranking), Interior and Related Agencies, Labor, Health and Human Services, Education and Related Agencies, Military Construction.

SENATOR WEICKER

Commerce, Justice, State, and Judiciary, Defense, Interior and Related Agencies, Labor, Health and Human Services, Education, and Related Agencies (Ranking), Transportation.

SENATOR MC CLURE

Agriculture and Related Agencies, Defense, Energy and Water Development, Interior and Related Agencies (Ranking), Labor, Health and Human Services, Education, and Related Agencies.

SENATOR GARN

Defense, Energy and Water Development, HUD-Independent Agencies (Ranking), Interior and Related Agencies, Military Construction.

SENATOR COCHRAN

Agriculture and Related Agencies (Ranking), Defense, Energy and Water Development, Interior and Related Agencies, Transportation and Related Agencies.

SENATOR KASTEN

Agriculture and Related Agencies, Commerce, Justice, State, and Judiciary, Defense, Foreign Operations (Ranking), Transportation and Related Agencies.

SENATOR D'AMATO

Defense, Foreign Operations, HUD-Independent Agencies, Transportation and Related Agencies (Ranking), Treasury, Postal Service, and General Government.

SENATOR RUDMAN

Commerce, Justice, State, and Judiciary (Ranking), Defense, Foreign Operations, Interior and Related Agencies, Labor, Health and Human Services, Education, and Related Agencies.

SENATOR SPECTER

Agriculture and Related Agencies, Energy and Water Development, Foreign Operations, Labor, Health and Human Services, Education, and Related Agencies, Military Construction (Ranking).

SENATOR DOMENICI

Energy and Water Development, HUD-Independent Agencies, Labor, Health and Human Services, Education, and Related Agencies, Treasury, Postal Service and General Government (Ranking).

SENATOR GRASSLEY

Agriculture and Related Agencies, District of Columbia, HUD-Independent Agencies, Legislative Branch (Ranking).

SENATOR NICKLES

District of Columbia (Ranking), Foreign Operations, HUD-Independent Agencies, Interior and Related Agencies.

SUBCOMMITTEES

Senator Stennis, as chairman of the Committee, and Senator Hatfield, as ranking minority member of the Committee, are ex officio members of all subcommittees of which they are not regular members.

AGRICULTURE AND RELATED AGENCIES

Senators Burdick,† Stennis, Chiles, Sasser, Bumpers, Harkin, Cochran,* McClure, Kasten, Specter, Grassley. (6-5).

COMMERCE, JUSTICE, STATE, AND JUDICIARY

Senators Hollings,† Inouye, Bumpers, Chiles, Lautenberg, Sasser, Rudman,* Stevens, Weicker, Hatfield, Kasten. (6-5).

DEFENSE

Senators Stennis,† Proxmire, Inouye, Hollings, Chiles, Johnston, Byrd, Leahy, Sasser, DeConcini, Stevens,* Weicker, Garn, McClure, Kasten, D'Amato, Rudman, Cochran. (10-8).

DISTRICT OF COLUMBIA

Senators Harkin,† Lautenberg, Reid, Nickles,* Grassley. (3-2).

ENERGY AND WATER DEVELOPMENT

Senators Johnston,† Stennis, Byrd, Hollings, Burdick, Sasser, DeConcini, Hatfield,* McClure, Garn, Cochran, Domenici, Specter. (7-6).

FOREIGN OPERATIONS

Senators Inouye,† Johnston, Leahy, DeConcini, Lautenberg, Harkin, Mikulski, Kasten,* Hatfield, D'Amato, Rudman, Specter, Nickles. (7-6).

HUD-INDEPENDENT AGENCIES

Senators Proxmire,† Stennis, Leahy, Johnston, Lautenberg, Mikulski, Garn,* D'Amato, Domenici, Grassley, Nickles. (6-5).

INTERIOR

Senators Byrd,† Johnston, Leahy, DeConcini, Burdick, Bumpers, Hollings, Reid, McClure,* Stevens, Garn, Cochran, Rudman, Weicker, Nickles. (8-7).

LABOR, HEALTH AND HUMAN SERVICES, EDUCATION

Senators Chiles,† Byrd, Proxmire, Hollings, Burdick, Inouye, Harkin, Bumpers, Weicker,* Hatfield, Stevens, Rudman, Specter, McClure, Domenici. (8-7).

LEGISLATIVE BRANCH

Senators Bumpers,† Mikulski, Reid, Grassley,* Hatfield. (3-2).

MILITARY CONSTRUCTION

Senators Sasser,† Inouye, Proxmire, Reid, Specter,* Garn, Stevens. (4-3).

TRANSPORTATION

Senators Lautenberg,† Stennis, Byrd, Chiles, Harkin, D'Amato,* Cochran, Kasten, Weicker, (5-4).

TREASURY, POSTAL SERVICE, GENERAL GOVERNMENT

Senators DeConcini,† Proxmire, Mikulski, Domenici,* D'Amato. (3-2).

† Subcommittee chairman
* Ranking minority member.

RULES OF THE COMMITTEE ON APPROPRIATIONS, 100TH CONGRESS

Mr. STENNIS. Mr. President, I submit, for printing in the CONGRESSIONAL RECORD, the rules of the Committee on Appropriations, adopted at the organizational meeting of the committee held earlier today, January 14. These rules were adopted and submitted as required by the rules of the Senate.

I ask unanimous consent that they be printed in the RECORD.

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

RULES *

I. Meetings.—The Committee will meet at the call of the Chairman.

II. Quorums.—1. Reporting a bill. A majority of the members must be present for the reporting of a bill.

2. Other business.—For the purpose of transacting business other than reporting a bill or taking testimony, one-third of the members of the Committee shall constitute a quorum.

3. Taking testimony.—For the purpose of taking testimony, other than sworn testimony, by the Committee or any subcommittee, one member of the Committee or subcommittee shall constitute a quorum. For the purpose of taking sworn testimony by the Committee, three members shall constitute a quorum, and for the taking of sworn testimony by any subcommittee, one member shall constitute a quorum.

III. Proxies.—Except for the reporting of a bill, votes may be cast by proxy when any member so requests.

IV. Attendance of staff members at closed sessions.—Attendance of Staff Members at closed sessions of the Committee shall be limited to those members of the Committee Staff that have a responsibility associated with the matter being considered at such meeting. This rule may be waived by unanimous consent.

V. Broadcasting and photographing of committee hearing.—The Committee or any of its subcommittees may permit the photographing and broadcast of open hearings by television and/or radio. However, if any member of a subcommittee objects to the photographing or broadcasting of an open hearing, the question shall be referred to the Full Committee for its decision.

VI. Availability of subcommittee reports.—When the bill and report of any subcommittee is available, they shall be furnished to each member of the Committee twenty-four hours prior to the Committee's consideration of said bill and report.

VII. Points of order.—Any member of the Committee who is floor manager of an appropriation bill, is hereby authorized and directed to make points of order against any amendment offered in violation of the Senate Rules on the floor of the Senate to such appropriation bill.

* Adopted pursuant to Rule XXVI, paragraph 2, of the "Standing Rules of the Senate."

CONGRATULATIONS TO THE DENVER BRONCOS

Mr. ARMSTRONG. Mr. President, in a moment I am going to send to the desk a resolution which will draw the attention of the Senate and the world to an event which will occur a week from Sunday on the west coast. It is the Super Bowl game in which the Denver Broncos will become the undisputed world champions in football.

Mr. President, I am not going to call for its immediate adoption, although Senators no doubt will want to stampede to do this. My colleague, Senator WIRTH, and I offer this amendment for consideration by the Senate.

In fact, the only reason I am not going to press for its immediate adoption is that we have not fulfilled the formal clearance process. We will ask the Cloakrooms on both sides to run their hot lines and perhaps clear the resolutions up today and tomorrow.

Mr. President, my larger purpose is related to that.

After many long, arduous hours of preparation, and after the competitive forces have separated the best from the very good, it is that time of the year again when the United States and a significant number of people throughout the world become gripped with fanatical emotion about a particular professional football team playing in the Super Bowl. Today it is a great privilege for me to stand before you and talk of the accomplishments of the American Football Conference Champions, and a football sports organization from Colorado, the Denver Broncos.

The Denver Broncos are not just a football team on their way to the Super Bowl XXI, they are not just a team that has sold-out Mile-High Stadium for more than 15 years, and they are not just a team with five players going to the Pro Bowl. The Denver Broncos are much more than that.

The Denver Broncos are recognized as one of the most active sports organizations in the area of community service. Many individual players contribute a substantial amount of personal time to youth counseling, antidrug programs and many other worthwhile community services.

Mr. President, when all is said and done, and after the seats are empty in Pasadena, CA, win or lose, the Denver Broncos will remain champions. At the moment, however, I hope the New York Giants and their fans realize that I am predicting they will suffer a crushing defeat.

Mr. President, my statement recognizes the preeminence of the Denver Broncos with their long, arduous hours of preparation, the wonderful season that they have had, the tremendous contribution that they have made to the sporting life and youth life of America, the inspiration that they have been to the young people not only of Colorado but the entire Western World, and that they be commemorated; that we will, in due course by adopting this resolution, give full recognition to the contribution they have made to the economy of the city of Denver and the State of Colorado and to the wonderful emphasis it has given to civic pride and sportsmanship wherever their name is known.

You all know, of course, that the Denver Broncos are more than just a team that has sold out the Mile High Stadium on every occasion in the last 15 years.

The Broncos are recognized as the most active sports organization in the area of community service. The individual players have an extraordinary record of concern for antidrug programs, for youth counseling, and many other worthwhile community services.

They are in every respect, on and off the field, true champions.

First, Mr. President, I would like to send to the desk this resolution and ask that it be held and taken up in routine course after it has been cleared by the respective Cloakrooms. I send this on behalf of myself and my colleague, Senator WIRTH.

The PRESIDING OFFICER. The resolution will be stated.

The legislative clerk read as follows:

A resolution (S. Res. 59) congratulating the Denver Broncos.

S. RES. 59

Whereas on January 25, 1987, the Denver Broncos, the American Football Conference Champions, will play the New York Giants, the National Football Conference Champions in the twenty first Super Bowl in Pasadena, California; and

Whereas the Denver Broncos' fans deserve their reputation as the most enthusiastic in professional sports; and

Whereas the Denver Broncos have 132 consecutive ticket sellouts for home games; and

Whereas the Denver Broncos have five players elected to play in the 1987 Pro Bowl; and

Whereas the Denver Broncos won the Western Division Title of the Americn Football Conference with 11 wins and 5 losses and defeated the New England Patriots and the Cleveland Browns in AFC playoff games to become AFC Champions and Super Bowl contender; and

Whereas the Denver Broncos actively participate in community service programs, such as youth counseling and anti-drug programs: Now, therefore, be it

Resolved, that it is the sense of the Senate that the Congress commends the superior achievements of the Denver Broncos organization.

The PRESIDING OFFICER. Without objection, the resolution will be held at the desk. I assume the Senator from New York will not object to that request.

Mr. D'AMATO. Mr. President, I certainly would not object to the resolution. The content therein may be somewhat doubtful as to the accomplishments that will be spelled out on a Sunday from now.

We would like, Mr. President, if my distinguished colleague has an opportunity to put in further discourse on this RECORD, to respond.

Mr. ARMSTRONG. I thank my friend from New York.

Mr. President, this brings me to the main reason that I wanted personally to come to the floor to express my heartfelt condolences, indeed my dismay, at the tragedy which is about to befall my colleagues from New York, Senator D'AMATO, Senator MOYNIHAN, and our two dear friends from the State of New Jersey.

What is going to happen to their team, the blow that this is going to be to the morale of the people of the greater New York area—New York and New Jersey—is really awesome to contemplate.

Mr. President, I feel bad about it. In many ways, one could argue that neither Mr. D'AMATO nor Mr. MOYNIHAN, Mr. LAUTENBERG, nor Mr. BRADLEY has done anything to be saddled with the kind of setback, the humiliating defeat, which is in prospect a week from Sunday. I want to say that I hope that in due course, after contem-

plating this event for 6 months or a year afterward, eventually, they will be able to recover their sense of balance and their sense of prespective about things in the world.

On the other hand, it does occur to me that while my colleagues are not responsible for this, neither are they entirely without blame for what is about to transpire. I would like to have it on the record of this body that at this very moment, the Senator from New York [Mr. D'AMATO] is on the verge of transgressing not only the rules of the Senate but, indeed, he comes close to offending the highest and best standards of interior design and architecture by erecting in the Hart Senate Office Building a monstrosity of an object which is posted in his window, in some way trying to glorify this team that is going to go out west to Pasadena a week from Sunday. Not only does it violate standards of good taste but it threatens to distract public attention from the tasteful object of art which has been erected in my own office window celebrating the fame of the Denver Broncos.

Moreover, Mr. President, I would have to say that not only is Senator D'AMATO at risk of debasing public property in this way, but it is probably only the mayor of New York who really has the right handle on this. He has declined to give a ticker-tape parade for this team—no doubt due to the evident schizophrenia with respect to the team. I think we should not go forward with this Super Bowl game out in California until we have some clarification whether this is a New York team or a New Jersey team. How can they expect to compete with the world-famous Denver Broncos if they do not even know where they are coming from?

Mr. President, you will never hear any doubt about where the Broncos are from. You never hear them referred to as the Nebraska Broncos, or the Wyoming Broncos. Honest to Pete, Mr. President, it is a little embarrassing for me, as a representative of the State which is proud to be the home of the most outstanding football team of our time, to be forced to go into competition with a team which is either the New York Giants or the Meadowlands, New Jersey, Giants; we are not sure which.

Finally, Mr. President, it is with a certain degree of humility, a certain sense of consternation that I must report to the Senate and to my colleagues that my friend from New York [Mr. D'AMATO] has suggested a most unsuitable wager, which I have agreed to only with the greatest reluctance, in which it is suggested that, if I am willing to back my faith in the Denver Broncos with a generous ration of Colorado beef, he is willing to suggest as his part of the wager a Long Island duck.

Mr. D'AMATO. Which has survived.

Mr. ARMSTRONG. Mr. President, I just do not think that if I were a supporter of a team like those Giants, I would want to do that, because I think the team will be a dead duck after a week from Sunday. [Laughter.]

Mr. D'AMATO addressed the Chair.

The PRESIDING OFFICER. The Senator from New York [Mr. D'AMATO].

Mr. D'AMATO. Mr. President, I might point out the history of this duck. He is called Lucky Duck. Three months ago, not many people would venture an opinion that Lucky Duck would be here to be wagered, double or nothing, as he survived the World Series and the challenge to the New York Mets by the team from Boston. Yet, Lucky Duck is here once again. Fame and fortune have come his way, irrespective of the fact that the mayor of New York City, my dear friend, Ed Koch, may not have realized for the moment that they were the New York Giants, who have given hope and fame to the entire region.

We know that Lucky Duck will survive and be with us once again. Our office will feast on the opulence of Denver steer. I wish we could have thrown in some Coors beer with it to wash it down. But we will provide the Genesee ale from New York.

Mr. President, I would like, if I might, to give tribute to those noble warriors, the Giants, and also fair warning to their gallant foes.

The first time they met, in last fall's icy breeze
The Giants brought Denver to their knees
So we're giving fair warning to Broncos who must:
Stay home from the Superbowl or you'll be crushed.

John Elway should simply use this occasion
To take a relaxing Bermuda vacation
And place-kicker Karlis should use all his power
To make sure he doesn't come out of the shower!

Or else they'll find Little Joe Morris there in a rush
To turn Denver's defense from Orange Crush into slush
With Taylor and Carson, Reasons and Burt,
The whole Bronco offense will surely eat dirt.

With Phil Simms as General, this awesome attack
Will see Mark Bavaro pass right through the cracks!
There's only one problem—the Giants will find
The scoreboard will only go up to ninety-nine.

I'm betting my duck against Bill Armstrong's steer
For udder disaster is now drawing near!
They'll be no dead ducks here when Denver is beaten
And you'd better believe that his cow will be eaten.

So after Parcells gets his Gatorade shower
We'll have a parade, no matter the place or the hour!
We'll eat Bronco meat, cause the Giants are chief
So, tell me, Bill Armstrong, Where's the Beef?

[Laughter.]

Mr. ARMSTRONG. Mr. President, I am dumbfounded by the statement which I have heard, by the temerity of my colleague. I am moved to state this parliamentary inquiry: Is it in order for a Senator to seek unanimous consent to revise a Senator's remarks?

The PRESIDING OFFICER. If the Senator would care to, I am sure that can be arranged.

Mr. ARMSTRONG. Would it be in order for me to move to revise the remarks of the Senator from New York?

The PRESIDING OFFICER. It would not be in order, I am afraid.

Mr. ARMSTRONG. Alas. I shall come back to that on another occasion. I thank my friend from New York.

Mr. D'AMATO. I thank my friend from Colorado and look forward to a continuation of this lively combat that only adds luster to the Senate and to the sports annals of America.

Mr. ARMSTRONG. Hear, hear.

Mr. PROXMIRE. Mr. President, will the Senator from New York yield?

Mr. D'AMATO. Certainly, Mr. President.

Mr. PROXMIRE. Mr. President, I must say the Senator from New York has surpassed the chutzpah that even he so excels in. After all, he does not represent the Jersey Mets or the Jersey Giants. There is only one Senator present who represents the Super Bowl champions. He is sitting in the chair. The Super Bowl champions are the Chicago Bears. They are almost as good as the Green Bay Packers.

I must say to my good friends I have been entertained by this. I hope they will not be swept away and feel that somehow, one of these two is going to represent the Super Bowl champions. No, they will not, either, because it is going to be LAUTENBERG, and BRADLEY, of course. Either LAUTENBERG or BRADLEY or BILL ARMSTRONG is going to represent a Super Bowl champion 2 weeks from now.

But at the present time, as I say, ALAN DIXON and PAUL SIMON represent the real Super Bowl champions, the Bears.

Mr. D'AMATO. Hear, hear.

Mr. PROXMIRE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DIXON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. PROXMIRE). Without objection, it is so ordered.

Mr. DIXON. Mr. President, I thank the distinguished senior Senator from Wisconsin for his eloquent remarks which so obviously stated the clear fact that the Super Bowl champions are the great Chicago Bears, who had a very difficult time recently because of some quarterback troubles but we will certainly be back again next year. I expect to make a similar speech to those made by the distinguished Senators from Colorado and New York when we sweep past the Green Bay Packers and others and again establish the fact that the Chicago Bears are the greatest football team in the world.

THE TENOR OF NEWLY INTRODUCED BILLS

Mr. ARMSTRONG. Mr. President, there is a line in one of Shakespeare's plays to the effect "And where I did begin, there I shall end." Somehow that expresses a great human truth that we should not lose sight of as this session of the 100th Congress begins. I am dismayed to report that upon reviewing the first day's proceedings of the Senate, not less than 359 bills were introduced and the general tone and tenor of those bills, with some exceptions, of course, is not one which gives promise of a highly productive session for 1987 and 1988.

Among these bills were proposals to create new Government agencies and offices, bills to start new spending programs and to enlarge those which already exist, and even, I am dismayed to report, a bill to repeal the Gramm-Rudman spending restraint plan.

Now, Mr. President, sprinkled in among these 359 bills, I am glad to say, are some measures which I fully support, such as that to deny a pay raise for Members of Congress, a bill not to repeal but to strengthen Gramm-Rudman, and a constitutional amendment requiring a balanced budget.

Mr. President, I think as we begin this session of Congress we ought to think seriously about where we are. I urge my colleagues to reflect very carefully before, in the enthusiasm of the new session, with a new majority in control of this Chamber, we enact the kind of legislation which is overwhelmingly represented in the bills introduced during this first week of the session.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. DIXON). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

TRIBUTE TO FRANK P. SAMFORD, JR.

Mr. HEFLIN. Mr. President, it was with great sadness and a personal sense of loss that I recently learned of the passing of my friend, Frank P. Samford, Jr., of Brimingham, AL. Frank was truly an outstanding individual. Not only was he an innovative, imaginative businessman and a caring, concerned member of his community, but he was also a loving, devoted husband and father and a trusted friend. He will be missed by all who knew him and by those many people who were touched by his special manner.

Frank Samford was born on January 29, 1921, to a family which has had a long history of achievement and public service to the State of Alabama. His great-grandfather served in the U.S. House of Representatives, and then as Governor of my State in 1900. His grandfather, Judge William H. Samford, was a judge in the Alabama Court of Appeals, and his father was a devoted civic leader and respected businessman who fostered many great causes through his life, including the establishment of Samford University.

Frank was born in Montgomery, attended Auburn University and then received his bachelors degree from Yale College in 1942. After graduating from college, he married Virginia Suydam, with whom he had attended public school. In that same year, he answered the call of his Nation, and served as an officer in the U.S. Navy during World War II, stationed on a destroyer which had tours in both the Atlantic and Pacific theaters of conflict. Upon his return, Frank enrolled in the University of Alabama Law School, where he graduated first in his class. We were classmates in law school and it was there that our friendship began.

After graduating from law school, Frank became a securities analyst with the Liberty Naitonal Life Insurance Co., of Birmingham, where his father was president and chief executive officer. Frank became president of Liberty National in 1960, succeeded his father as chief executive officer in 1967, and as chairman of the board in 1973. In 1979, he led the forming of Torchmark Corp., a holding company which diversified into such businesses as investments and aircraft leasing. Under his direction, the Liberty National Life Insurance Co., became one of the Nation's leading financial services conglomerates. In recognition of his ability and success, Frank was twice awarded The Silver Award of The Wall Street Transcript, as a runner-up to the outstanding chief executive in the life insurance industry. In addition to the guidance that he offered to Liberty National, Frank served on the corporate boards of various companies in Alabama, such as the BellSouth Co., Golden Enterprises, Inc., the Southern Co., and South Central Bell. He also served as director of the Birmingham Branch of the Federal Reserve Bank. Thus, he was responsible in no small way for the economic well-being of my State through his efforts in directing the affairs of so many businesses.

Throughout his life, Frank also devoted himself to organizations and efforts which provided a direct benefit to his community and State. He offered essential leadership to learning institutions such as Auburn University and Samford College, which was named for his father. Other groups enjoyed his support as well. He served as chairman of the Jefferson County United Appeal, and as a trustee of the Jefferson County Community Chest.

Mr. President, the example of citizenship and involvement which Frank Samford has left is one which should be examined and emulated by all. He fulfilled his duty to his fellow man in an outstanding capacity, and forever worked to offer others many of the advantages that he, himself, had enjoyed. In this and other ways, Frank Samford embodied the definition of a true gentleman. I will miss the special friendship that he offered.

Mr. President, I ask unanimous consent that articles from the Birmingham Post-Herald and the Birmingham News be printed in the CONGRESSIONAL RECORD.

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

BUSINESSMAN FRANK SAMFORD DIES

(By Andrew Kilpatrick)

Frank P. Samford, Jr., one of the nation's outstanding businessmen and longtime chairman of the board and chief executive officer of Torchmark Corp. in Birmingham, died Saturday morning.

He died at his home in Hilton Head, S.C., after a long battle with cancer. He was 65.

He was chairman of the executive committee of Torchmark, an insurance services company in Birmingham. The firm is the parent company of Liberty National Life Insurance Co.

In 1984, Samford received The Wall Street Transcript Gold Award as the nation's top insurance chief executive.

"He was one the most productive citizens in our state," Gov. George Wallace said Saturday. "He was a fine citizen. I feel a sense of personal loss."

Torchmark was created in 1979 from Liberty National Life Insurance Co. and Samford, who spent his entire career with Liberty National company, led Torchmark through a series of acquisitions that paid enourmous dividends over the years.

"It was Frank's vision to form a diversified insurance and financial services company that led to the formation of Torchmark," said R.K. Richey, now chairman and chief executive officer of Torchmark.

For years Samford has been a major business and civic leader in Birmingham.

In 1984, Samford was named one of Birmingham's top community leaders in a Birmingham Post-Herald survey.

He joined Liberty National in 1947 as a securities analyst, succeeding his father,

Frank P. Samford Sr., as president in 1960, and as chairman in 1973.

Samford an his father guided Liberty National and later Torchmark for 50 years as the business grew in assets from less then $1 million to more than $3.4 billion

Samford attended Auburn University and was graduated from Yale University in 1942.

After serving as a U.S. Navy officer for three years, he returned to the University of Alabama's law school where he graduated first in his class.

Samford was a major benefactor of Samford University, which was named for Samford's father.

Samford's grandfather served on the Court of Appeals of Alabama and his great-grandfather was governor of Alabama from 1900-1901.

Samford is survived by his wife, the former Virginia Suydam, whom he married in 1942, and four children: Frank P. Samford III of Atlanta; Laura S. Armitage of Washington D.C.; John S.P. Samford of Birmingham; and Mae S. Robertson of New Rochelle, N.Y.

Memorial services well be held at the Independent Presbyterian Church on Highland Avenue at 11 a.m. tomorrow.

Private interment will be in the family plot at Elmwood Cemetery, Ridout's Southside directing.

The family asks that any memorials be made to Samford University, Auburn University or the Jefferson County United Way.

[From The Birmingham News, Dec. 7, 1986]

FRANK SAMFORD JR., BUSINESS COMMUNITY LEADER, DIES AT 65

(By Kent Faulk)

Frank Samford Jr., the man credited with transforming Birmingham-based Liberty National Life Insurance Co. into one of the nation's leading financial services conglomerates, died Saturday of cancer.

Samford, 65, died in Hilton Head, S.C. At the time of his death, he was chairman of the executive committee of Torchmark Corp., parent company of Liberty National and one of the largest insurance organizations in the nation.

Samford was elected a director of Liberty National Life Insurance Co. in 1950, became president in 1960 and succeeded his father, Frank P. Samford Sr., in 1967 as chief executive officer and as chairman of the board in 1973.

In 1979, he led the forming of Torchmark Corp., a holding company. Beginning that year, Torchmark diversified into such businesses as investments and aircraft leasing.

Samford served as president, chief executive officer and later chairman of the board of Torchmark. He relinquished the top position recently but retained his position as a director.

He twice received the Silver Award of The Wall Street Transcript as a runner-up to the outstanding chief executive in the life insurance industry. He also held positions on a number of corporate and non-profit boards, including BellSouth Corp., South Central Bell and Auburn University.

Samford attended Auburn University and graduated from Yale University in 1942. After serving in the U.S. Navy during World War II, he graduated from the University of Alabama Law School.

Some of Samford's friends and associates remember him as a "free-spirit" who didn't follow trends.

He wore a beard when it wasn't fashionable for executives, and he was involved in many activities outside the business world.

"He was very innovative," said Brant Beene, director of advertising and sales promotion for Liberty National.

Nelson Cole, a friend of 20 years, said Samford was very involved in physical fitness and ran in foot races. "He used to ride a bicycle to work . . . and was probably very instrumental in getting the fitness center for employees in the Liberty National building," he said.

Ira Burleson, who retired as vice chairman of the board of Torchmark earlier this year, said Samford was "highly capable" of any job that he undertook. "He was a true gentleman in every respect. He was soft-spoken but quite firm in the direction he wanted to go," he said.

Samford is survived by his wife of 42 years, the former Virginia Suydam; two sons, Frank P. Samford III of Atlanta, Ga., and John S.P. Samford of Birmingham; and two daughters, Laura S. Armitage of Washington, D.C., and Mae S. Robertson of New Rochell, N.Y.

Memorial services will be held Tuesday at 11 a.m. at the Independent Presbyterian Church on Highland Avenue. A private burial will be in the family plot at Elmwood Cemetery, with Rideout's Southside directing.

The family suggests memorials be made to Samford University, Auburn University or the Jefferson County United Way.

TRIBUTE TO ROLAND ROBISON

Mr. HATCH. Mr. President, as the new year begins and as the holiday season ends, the majority of Americans and people around the world typically tend to reflect on the personal and professional accomplishments and challenges of both the year past and in the year ahead.

In this vein, I would like to take the opportunity to express my thanks and admiration for a professional employee of the Bureau of Land Management, whose contributions in 1986 and many years preceeding have been exemplary and have gone far beyond the call of duty.

Mr. Roland Robison, originally from Morgan County, UT, is currently the State BLM director in the State of Utah. In a State in which 70 percent of the lands are controlled by the Federal Government, the BLM director's job is, to put it mildly, enormous in scope and in ramification.

He is called upon to balance the interests of ranchers, miners, power projects, and environmental concerns on a daily basis. It would be difficult to imagine how any director could walk this fine line in a more equitable and practical matter than does this fine public servant.

An excellent example of his leadership has been the successful transfer of lands owed to the State of Utah since statehood. Because of the many controversies surrounding the questions of land values, efforts to complete this transaction had been stymied since 1972. Under Mr. Robison's guidance, 93,000 acres were successfully completed in 1983, and since that time, an additional 25,000 acres have been transferred to the State with total satisfaction of the claims planned in the near future.

In 1985, Mr. Robison received the department of the interior's Meritorious Service Award in recognition of his achievements, both as State BLM director and throughout his career.

This award highlights characteristics that Roland has exemplified over a public career which has spanned the range of deputy assistant secretary for land and water resources, assistant solicitor for energy and resources for the Department of the Interior, and as deputy attorney general for the State of Utah.

In these positions Mr. Robison has not only been a participant, but a contributor to decisions affecting national farm programs, industrial efforts, national electric power potential and land and mineral rights. While Mr. Robison is not the kind of man to seek attention or recognition, his commitment to excellence, his unique ability to communicate with individuals outside as well as inside government, and his dedication to his job warrant recognition.

Mr. President, the State of Utah is truly fortunate to have such a land manager at the head of the BLM State office, and I believe virtually every official, interest group, and members of the general public would agree.

TRIBUTE TO STEVE E. TONDERA

Mr. HEFLIN. Mr. President, it is with great honor that I rise today to pay tribute to Steve Ernest Tondera, of Huntsville, AL, who has provided the people of my State and the people of America with outstanding leadership, direction, and guidance in many different areas of life.

Originally a native of Waco, TX, Steve Tondera served for 2 years in the U.S. Army after attending Texas A&M University, and receiving a B.S. degree in mathematics and physics from Baylor University. While he was in the Army, Steve was stationed at Redstone Arsenal in Huntsville. After his discharge, he was employed by the U.S. Army Ballistic Command, and when NASA was formed in 1961, he obtained a transfer into that organization, where he has remained for more than 25 years.

In addition to his work with NASA, Steve owns the Diamond T Ranch outside of Huntsville, where he successfully runs a herd of Santa Gertrudis cattle. For many years, he has been active in the leadership of various cattle associations. He was elected as the first president of the Alabama Purebred Beef Breeder's Council, the president of the Santa Gertrudis Asso-

ciation, and various other cattle organizations. Last February, he was elected the 41st president of the Alabama Cattlemen's Association. During his tenure, he has worked to increase membership, to enlist the support and participation of youngsters in the 4-H and FFA programs, and to provide the cattle industry with energetic and imaginative leadership. Steve and the entire Alabama Cattlemen's Association have accomplished many great things in the last year, and I know that they will continue on this path in 1987. I, for one, will need their help in representing the cattle producers of my State. I applaud Steve's efforts on behalf of the cattlemen of Alabama.

Steve is also very active in the Baptist circles in Alabama. Last year, he was elected vice president, and this year, president of the Alabama Baptist Convention, becoming the first layman to hold the post of president since 1970. As president of the Alabama Baptists, Steve provides both strong leadership, and an open forum in which those who wish may express their views. In addition to his position as president of the State Convention of Baptists, Steve is a member of, and serves as chairman of deacons at First Baptist Church of Huntsville.

In a president's report to the members of the Alabama Cattlemen's Association, Steve pointed out that there are two kinds of people in this world, men of words and men of deeds. Steve Tondera is a man of deeds, but, even more importantly, he is a man who leads others through the example of his own actions, This is a rare and valuable man, in this day and age, but one from whom we can all learn.

I salute Steve Tondera for all that he has done to cultivate excellence in each of his endeavors—as a professional for NASA, as president of the Alabama Cattlemen's Association, and as president of the Alabama Baptist Convention. He is a great citizen who has worked toward the benefit of others. I look forward to the future, as he becomes involved in many other organizations, and groups, and to watch as his efforts bear plentiful fruit, as I know that they will.

Mr. President, I ask unanimous consent that the article from the Montgomery Advertiser be printed in the CONGRESSIONAL RECORD.

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

NASA EMPLOYEE ELECTED PRESIDENT OF STATE'S BAPTISTS

MOBILE.—Steve Ernest Tondera, a 53-year-old cattle rancher and NASA employee from Huntsville, was elected president of the Alabama Baptist Convention on Wednesday, becoming the first layman to hold the post since 1970.

At a news conference, Tondera said he does not consider his politics as conservative or liberal, but he said it was "just wonderful" that Gov.-elect Guy Hunt is a practicing Primitive Baptist minister. "I do feel like that's a real asset."

As for his religious beliefs, Tondera said, "I think my theology is very conservative."

Tondera had been acting president since Nov. 1, when the Rev. Lewis Marler resigned as president for health reasons. Tondera was elected to a one-year term over the Rev. Glenn Weekley of Jasper during the closing session of the convention. Tondera, also president of the Alabama Cattlemen's Association, received 729 votes to 285 for Weekley.

The president's job is non-paying and in recent years has gone to a minister.

Elected first vice president was the Rev. Robert C. Pitman of Muscle Shoals and the Rev. Ralph Jones of Clanton was chosen second vice president of the convention.

A committee to the convention killed a resolution regarding the role of women in the pulpit, but the 1,400 delegates voted to condemn the teaching of humanism in schools.

Bob Duck, a convention spokesman, said the issue of women clerics would probably resurface when the church meets next year in Montgomery.

The motion to acknowledge women as equals, sponsored by the Music and Education Association, said women should share the respect and privileges inherent in God's work.

The Rev. Henry Cox, chairman of the resolutions committee which killed the measure Tuesday, said the wording could be interpreted to support the ordination of women.

"We felt the need to examine the controversial and potentially divisive issue more closely," Cox said. "Ordination of women is a local church matter."

At his news conference, Tondera agreed that the issue belongs in the local church because the Baptist denomination gives each church autonomy. "I can't legislate that. That would not be the thing to do," said Tondera.

Supporters said the intent of the resolution was not to push for ordination of women.

"It's a simple statement that women have a place in ministry. This is a resolution recognizing that," said Rev. Otis Brooks, pastor of Vestavia Hills Baptist Church. "I think it would pass if people understood what it means. We have women working with children, as missionaries and teachers."

On the issue of secular humanism, convention delegates, or "messengers," overwhelmingly objected to "direct or indirect indoctrination of humanism" and the omission of Christianity's role in history in textbooks.

Tondera said he does not have "any views at all" on religion in the classroom. But he said growing up in Texas, prayer and Bible reading were commonplace. He said his wife Bonnie, grew up in Colorado where the situation was just the opposite.

"I want my children when they go to school to learn to read and write," said Tondera.

The textbook resolution arose from a federal lawsuit filed in Mobile by some 600 parents and teachers who maintain some Alabama textbooks advance secular humanism while traditional religions are excluded.

Athough the motion did not mention the case, it indicated substantial support among Baptists for the fundamentalist Chirstian parents, many of them Southern Baptists, who sued the State Board of Education. A federal judge who presided in the trial of the case in Mobile has yet to rule.

During discussion of the humanism resolution, one speaker objected to talk of banning such books as "The Diary of Anne Frank."

"These books have a place in the schools," he said. Yet a voice vote indicated little objection to the resolution.

"I think most Baptists support the trial in the general sense. It's the immorality that folks don't like and the leaving out of religion," said Rev. Andrew W. Tampling, pastor of First Baptist Church of Birmingham.

The three-day meeting was the state organization's 164th annual convention. The messengers represent more than 1 million Southern Baptists in Alabama.

CONGRATULATIONS TO TOM SCARRITT

Mr. HEFLIN. Mr. President, I was delighted to learn that Tom Scarritt had been appointed as the new editorial page editor of the Birmingham News, and wish to take this opportunity to congratulate him on this honor. I know that he will continue to provide the leadership and example that has been the trademark of the News since it was established.

Tom has a long history of association with the newspaper business. His father, the late Charles W. Scarritt, was a fine newspaperman and a professor of journalism at the University of Alabama. His mother was also a reporter, and I suppose you could say that Tom was born in the business and raised between the rows. Tom graduated Phi Beta Kappa from the University of North Carolina at Chapel Hill School of Journalism. Before joining the News, he worked for the University of North Carolina student newspaper and the Chapel Hill newspaper. He interned at the Birmingham News the summer before he graduated.

Tom joined the Birmingham News in 1975, when he started as a general assignment reporter. After supervising coverage of the 1978 Alabama elections, the year in which I was elected to this august body, he served as the Washington correspondent for the News from 1979 until 1983. During this time, I found him to be extremely capable, fair, objective, and professional. I enjoyed working with him, and developed a great respect for his professionalism. In 1983, he returned to Birmingham to become news editor, and in March 1985, he became associate editorial page editor.

As a reporter, Tom has been presented with various newswriting awards, including one from the Alabama Press Association, and one from the State chapter of the Society of Professional Journalists, Sigma Delta Chi. He has also won the Troy State University Hector Award for editorial writing, and has twice won the Big N Award,

offered by the News, itself, for journalistic excellence.

I would like to wish Tom Scarritt the best of luck in the next few years, and I am certain that he will provide the Birmingham News with great guidance objectivity as editorial page editor. I know that he will serve the public interest in an outstanding capacity, and that all will benefit from his efforts.

Mr. President, I ask unanimous consent that an article from the Birmingham News regarding Tom Scarritt's promotion, be printed in the RECORD.

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

THE NEWS PUTS EDITORIAL PAGES UNDER DIRECTION OF TOM SCARRITT

Tom Scarritt, associate editorial page editor of the Birmingham News, has been named editorial page editor following the retirement of James R. McAdory, Jr.

Publisher Victor H. Hanson II announced Scarritt's new assignment, saying that although McAdory's place will not be easily filled, he has "great faith in Tom's skills and depth of knowledge. I have the utmost confidence in Tom Scarritt."

Scarritt, 33, was formerly Washington correspondent from 1979 to 1983, and has reported and edited for the News since 1975. He started as a general assignment reporter in 1975, was a westside metro reporter, then became metro editor.

As special projects editor, his next position, Scarritt supervised coverage of the 1978 Alabama elections and directed an in-depth report on the Tennessee-Tombigbee Waterway.

After more than four years as the newspaper's Washington correspondent, Scarritt moved back to Birmingham to become news editor in 1983. In that job, he decided what stories were used and where they were placed in the newspaper.

In March 1985, he became associate editorial page editor.

Editor James Jacobson said he is "confident that Tom Scarritt will bring thoughtful and energetic leadership to the editorial page of the Birmingham News."

"Under his direction," Jacobson said, "I expect the editorial page of this newspaper to play an important and constructive role in helping Alabama and Alabamians confront issues and think through the decisions that will determine how well we succeed in realizing our state's enormous potential."

Scarritt's work has won newswriting awards from the Alabama Press Association and the state chapter of the Society of Professional Journalists, Sigma Delta Chi. He has won the Troy State University Hector Award for editorial writing and twice won the News' Big N Award for journalistic excellence.

He grew up in the profession, as son of the late Charles W. Scarritt, a newspaperman and University of Alabama journalism professor. His mother was also a reporter, Scarritt said.

Scarritt is a Phi Beta Kappa graduate of the School of Journalism at the University of North Carolina at Chapel Hill and a member of the Society of Professional Journalists, Sigma Delta Chi, and the journalistic honorary Kappa Tau Alpha.

Before joining the News, he worked for the University of North Carolina student newspaper and the Chapel Hill Newspaper. He interned at the News the summer before he graduated.

Scarritt said he is looking forward to his new position.

"I think we're about to have some exciting times in Alabama with the total change in the executive branch, as well as the crises in education and economic development," he said. "I hope the News can have a positive role."

Scarritt and his wife Kathy, a lead systems analyst for the administrative computer center at the University of Alabama at Birmingham, have a 3-year-old daughter, Sara.

TRIBUTE TO JAMES R. McADORY, JR.

Mr. HEFLIN. Mr. President, it is my honor to rise, today to pay tribute to Mr. James R. McAdory, Jr., who recently retired as the editorial page editor of the Birmingham News, after spending 40 years with the company.

Throughout these years with the News, Mr. McAdory has labored above all else to better his community, his State, and his Nation. He has always served the public interest with the greatest integrity, and he is regarded by his colleagues and associates with the highest esteem. Furthermore, he has provided an indispensable and important service to the citizens of our State and Nation by helping to keep them better informed and knowledgeable of the important issues and matters which we constantly face together as a country. This service is often taken for granted, but Jimmy McAdory's extended efforts have not passed unnoticed.

Mr. McAdory, who is a native of Birmingham, received a degree in liberal arts from my alma mater, the Birmingham-Southern College. I was a classmate of Jimmy, and developed a friendship that has lasted throughout our lives. After serving for almost 2 years in the merchant marines during World War II, he performed graduate work at Columbia University in New York City, and then joined the staff of the Birmingham News as a police reporter in 1947. During his employment with the News, Mr. McAdory has worked in various different positions, including copy editor, makeup editor, book editor, Sunday editor, assistant managing editor, editor of what is now the life style section, and editor of several special sections. Above all else, he has said that he enjoys the writing jobs best.

Through the years, Mr. McAdory says that he has developed a conservative philosophy which I believe is interesting to note here. He believes that there is now a lack of rapport between the media and the Government, and that it will work to the detriment of society as a whole. He also says that he is worried about the intrusion of Government into the marketplace and the downfall of the American family.

Though Mr. McAdory has retired from the newspaper business, he plans to continue writing fiction. I believe that his experience, his dedication, and his expertise will provide the reading world with many great works. Any forthcoming books will be a welcome addition to his many existing efforts and accomplishments, for which we are already thankful.

James McAdory is an excellent, responsible journalist who has provided leadership through his example. He has worked to improve and enrich the lives of the citizens of my State, and I feel that his actions have helped to encourage the great degree of excellence that exists at the Birmingham News.

Mr. President, I ask unanimous consent that an article from the Birmingham News, which describes James McAdory's contributions, be printed in the CONGRESSIONAL RECORD.

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

MCADORY RETIRES, BUT NOT FROM WRITING

(By Susan Cullen)

When James R. McAdory, Jr. came to work for The Birmingham News in 1947 as a police reporter, he made $27.50 a week, and he says he could "almost" live on it then.

"For years, I ate lunch for under 50 cents. The most I ever paid for a pair of shoes was $12. There were nice prices then, but the salary was commensurate," he said, laughing.

Last week, after 40 years at The News, McAdory retired as editorial page editor. Since 1947, he has been copy editor, makeup editor, book editor, Sunday editor, assistant managing editor, editor of what is now the Lifestyle section, and editor of several special sections.

"I've done every job on this paper except sports," he said, adding that the writing jobs were his favorite. Although the majority of his years were spent in administration, McAdory said it wasn't as much fun as writing.

"Administration is a pain in the you-know-what," he said.

McAdory, a native of Birmingham, said journalism has changed a good bit since he started in the business.

"There's a lack of rapport between the media and government," he said "It's going to work to the detriment of society as a whole."

McAdory said sources used to confide in reporters and trust them with information. "Now reporters go in with the attitude that everything's on the record," he said.

"Skepticism is one thing," he said, "but I don't think they should project hostility. Civility is a thing of the past, and it's cutting your nose off to spite your face."

McAdory, 65, was editorial page editor from 1972 until his retirement Thursday. He said writing editorials isn't so different from writing news stories, because both require reporting skills.

"Editorials are both interpretation and reporting," he said. "It's encapsulating a story in a series of opinions."

McAdory said he came by his conservative philosophy by experiencing the real world.

"I saw what worked and what didn't work," he said. "The problem with the liber-

al agenda is that their solutions create more problems than they solve.

"They just shore up the original intrusion of the government into the marketplace."

McAdory said welfare, for example, has stripped people of their independence and decision-making power, and has been "one of the most destructive forces" in the downfall of the American family. Many young couples don't marry because they'll lose their benefits, he said.

His conservatism has grown slowly over the years, McAdory said. "After World War II, I was as liberal as the rest of them," he said. "It was something in the air, like a virus," he said with a laugh.

He said he has stayed with the Birmingham News for so long partly because of the newspaper's growth over the years. "The company's been growing, and I've been a part of that growth," he said. "I wanted to hang around and see where it went."

There was a lot less to cover in Birmingham when McAdory started out, he said. "We used to have about one murder a month when I was a police reporter," he said, "and it was a very big deal."

He said it amazes him now to see the murders "stacked on top of each other" in the crime column of the newspaper.

He was graduated from Birmingham-Southern College with a degree in liberal arts, and did graduate work at Columbia University in New York City. He served 40 months in the Merchant Marine during World War II.

He plans to write a book now that he's retired, he said, "probably an adventure novel."

He has already written one, but said it's sitting on a shelf because the publisher said it needed "salacious material" before it could be printed. McAdory said he doubts he'll put any steamy stuff in his next book, "unless it comes as part of the plot.

"I'm not just going to dump it in there," he said.

He also plans to do some woodworking in his new-found spare time, he said, and give his house a long-overdue painting, inside and out.

His wife Addie Lee is looking forward to having him home, McAdory said. They have two children, Carmen and James III, and two grandchildren.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. PROXMIRE, from the Committee on Banking, Housing, and Urban Affairs, without amendment:

S. Res 55. An original resolution authorizing expenditures by the Committee on Banking, Housing, and Urban Affairs; referred to the Committee on Rules and Administration.

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, without amendment:

S. Res. 56. An original resolution authorizing expenditures by the Committee on Energy and Natural Resources; referred to the Committee on Rules and Administration.

By Mr. NUNN, from the Committee on Armed Services, without amendment:

S. Res. 57. An original resolution authorizing expenditures by the Committee on Armed Services; referred to the Committee on Rules and Administration.

By Mr. STENNIS, from the Committee on Appropriations, without amendment:

S. Res. 58. An original resolution authorizing expenditures by the Committee on Appropriations; referred to the Committee on Rules and Administration.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

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

By Mr. GRASSLEY (for himself and Mr. WILSON):

S. 309. A bill to prevent increases in the rates of pay of Members of Congress and certain other officers and employees of the Federal Government under the Federal Salary Act of 1967 without the approval of Congress; to the Committee on Governmental Affairs.

By Mr. BAUCUS (for himself, Mr. BOREN, Mr. BURDICK, Mr. ZORINSKY, Mr. EXON, and Mr. HEFLIN):

S. 310. A bill to amend the Export Administration Act of 1979 to promote the export of United States agricultural commodities and the products thereof, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. ZORINSKY:

S. 311. A bill to amend the Internal Revenue Code of 1986 to preclude all corporations engaged in farm product processing with gross receipts in excess of $100,000,000 from using cash accounting; to the Committee on Finance.

By Mr. STAFFORD (for himself, Mr. MOYNIHAN, and Mr. SYMMS) (by request):

S. 312. A bill to authorize appropriations for certain highways in accordance with title 23, United States Code, and for other purposes; to the Committee on Environment and Public Works.

By Mr. SASSER:

S. 313. A bill to make permanent the duty-free importation of hatter's fur; to the Committee on Finance.

By Mr. PRESSLER (for himself, Mr. MATSUNAGA, Mr. INOUYE, Mr. HEINZ, Mr. DODD, Mr. STAFFORD, Mr COCHRAN, and Mr. SIMON):

S. 314. A bill to require certain telephones to be hearing aid compatible; to the Committee on Commerce, Science, and Transportation.

By Mr. DIXON (for himself and Mr. SIMON):

S. 315. A bill to amend and extend the authorization for the Urban Mass Transportation Act of 1964; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. WALLOP (for himself, Mr. DURENBERGER, and Mr. ZORINSKY):

S.J. Res. 18. A joint resolution to authorize and request the President to issue a proclamation designating June 1 through June 7, 1987 as "National Fishing Week"; to the Committee on the Judiciary.

By Mr. WARNER (for himself, Mr. PELL, Mr. MATSUNAGA, Mr. CHAFEE, Mr. HOLLINGS, Mr. TRIBLE, Mr. HEINZ, Mr. MCCLURE, Mr. BURDICK, Mr. JOHNSTON, Mr. QUAYLE, and Mr. GLENN):

S.J. Res. 19. A joint resolution to designate March 20, 1987 as "National Energy Education Day"; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

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

By Mr. PROXMIRE, from the Committee on Banking, Housing, and Urban Affairs:

S. Res. 55. An original resolution authorizing expenditures by the Committee on Banking, Housing, and Urban Affairs; to the Committee on Rules and Administration.

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources:

S. Res. 56. An original resolution authorizing expenditures by the Committee on Energy and Natural Resources; from the Committee on Energy and Natural Resources; to the Committee on Finance and the Committee on Rules and Administration, jointly.

By Mr. NUNN, from the Committee on Armed Services:

S. Res. 57. An original resolution authorizing expenditures by the Committee on Armed Services; to the Committee on Rules and Administration.

By Mr. STENNIS, from the Committee on Appropriations:

S. Res. 58. An original resolution authorizing expenditures by the Committee on Appropriations; to the Committee on Rules and Administration.

By Mr. ARMSTRONG (for himself and Mr. WIRTH):

S. Res. 59. A resolution congratulating the Denver Broncos; ordered held at the desk.

By Mr. MURKOWSKI (for himself, Mr. CRANSTON, Mr. SIMPSON, Mr. THURMOND, Mr. STAFFORD, Mr. SPECTER, Mr. MATSUNAGA, Mr. DECONCINI, Mr. MITCHELL, Mr. ROCKEFELLER, and Mr. GRAHAM):

S. Con. Res. 7. A concurrent resolution to express the sense of the Congress regarding its opposition to reductions in Veterans' Administration funding levels to pay for health care for certain categories of eligible veterans; to the Committee on Veterans' Affairs.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. GRASSLEY (for himself and Mr. WILSON):

S. 309. A bill to prevent increases in the rates of pay of Members of Congress and certain other officers and employees of the Federal Government under the Federal Salary Act of 1967 without the approval of Congress; to the Committee on Governmental Affairs.

PREVENTING AUTOMATIC PAY INCREASES FOR MEMBERS OF CONGRESS AND CERTAIN OTHER FEDERAL OFFICIALS

Mr. GRASSLEY. Mr. President, my purpose in speaking this morning is to introduce a bill that will change the method by which Members of Congress, the Cabinet, and other officials will now receive automatic pay raises. I am, of course, opposed to the pay raise that Congressmen are about to receive if Congress does not take negative action; but more important than my opposition to the pay raise per se

is my opposition to the method by which that pay raise will be granted.

The heart of the problem is that current legislative procedure is rigged to allow pay raises to go into effect without a vote. The pay raise for top Government officials suggested in the President's budget will go into effect unless both Houses of Congress pass a resolution of disapproval within 30 days.

The legislation which I am introducing is very simple and straightforward. It requires that both Houses of Congress vote on a pay raise within 30 days of its submission by the President. The raise cannot go into effect unless Congress votes on it—yes or no.

I have concluded that the 30-day limit in my legislation is necessary so that Congress cannot dodge its responsibilities by including a pay raise in an omnibus spending bill at the end of the session. Congress is responsible for voting on any other increase in Federal expenditures. Congress has to approve every other dollar that is spent by the Federal Government. We are accountable to the voters for our decisions to increase or decrease other budget items. There is no reason why Congress should be able to duck its responsibilities on the pay raise issue.

Maybe we can learn something from history. During the Great Depression, Congress cut its pay by 10 percent to set an example for other Government agencies. Given the size of the Federal budget deficit today, I do not believe it is asking too much to require Congress to have a rollcall vote on a pay raise. I am not asking Congress to take a pay cut; I am simply asking that we vote on the issue.

In conclusion, Mr. President, in addition to this proposition of whether or not we should vote on a pay raise, we should consider: Do the people think we deserve a pay raise? I think that in these times of massive budget deficits, the answer is "No."

If we succeed with Gramm-Rudman and balance the budget by 1991, I would think that the people of this Nation would applaud Congress very much for its accomplishment. At that time, there might be more public support for a pay raise as a reward for accomplishing that goal.

So, Mr. President, I send this bill to the desk.

The ACTING PRESIDENT pro tempore. The bill will be received and appropriately referred.

Mr. WILSON. Mr President, I ask unanimous consent that my name be added as a cosponsor of the measure of the distinguished Senator from Iowa.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. WILSON. Mr. President, I was unaware when I came to the floor this morning that the distinguished Senator from Iowa was going to make the presentation he has just concluded. I commend him for doing so. I join him and hope for its success.

By Mr. BAUCUS (for himself, Mr. BOREN, Mr. BURDICK, Mr. ZORINSKY, Mr. EXON, and Mr. HEFLIN):

S. 310. A bill to amend the Export Administration Act of 1979 to promote the export of U.S. agricultural commodities and the products thereof, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

(The remarks of Mr. BAUCUS and the text of the legislation appear earlier in today's RECORD.)

By Mr. ZORINSKY:

S. 311. A bill to amend the Internal Revenue Code of 1986 to preclude all corporations engaged in farm product processing with gross receipts in excess of $100,000,000 from using cash accounting; to the Committee on Finance.

ABUSIVE USE OF CASH ACCOUNTING BY LARGE FOOD PROCESSORS

● Mr. ZORINSKY. Mr. President, today I am introducing legislation to close an expensive and abusive tax loophole. Through this loophole, multimillion-dollar food processing companies call themselves "family farms" and thereby qualify for over half a billion dollars worth of tax breaks.

Current law allows certain large food processors to use the cash method of accounting instead of the accrual method. This provision is meant for small family farmers who cannot afford to employ the accountants needed to use the accrual method. By using cash accounting, these large companies deduct expenses in the current year that should be deducted in later years. This effectively allows the company to postpone paying its taxes. In one case, a company deferred $26 million of its taxes 1 year. Another company deferred $4 million.

This is obscene. My bill would end the charade by placing an income test on the relevant provision of the tax laws. No company with revenues of over $100 million would be allowed to call itself a family farm and thereby qualify to use cash accounting. Companies that play in these big leagues can afford to hire a few accountants and use the accrual method.

Some defenders of this loophole contend that it helps the small chicken farmers who do business with the companies that exploit the loophole. I find it difficult to take this argument seriously. It is far from clear that the farmers receive any benefit from the loophole. Chicken farmers associated with the processors who use cash accounting are in about the same economic situation as farmers associated with processors who do not use this loophole. The tax break goes to the company owners, not the farmers.

Even if some benefit does trickle down to the chicken farmers, why should we give a tax break to one farmer over another when they do the exact same thing? Are chicken farmers connected with Tyson's more deserving of a tax break that chicken farmers associated with Holly Farms? Each farmer works equally hard and they should be treated the same under the Tax Code. The playing field should be leveled. And, if truly we want to provide a tax break to the farmers, there is no need to filter that break through these mammoth processors. We can just give the break directly to the farmers.

But, this tax break doesn't really concern the chicken farmers. They are just a convenient cover for the big companies. And it's those big companies who have benefitted all these years. I am sorry, but Congress simply cannot afford to ladle out this kind of largesse anymore.

On November 6, 1986, I inserted into the CONGRESSIONAL RECORD 12 articles highlighting the inequity of this loophole. (The articles begin on page S. 17418.) To demonstrate how widespread outrage over this provision is, simply look at the diversity of sources for these articles: Newsweek, Forbes, the Washington Post, the Boston Globe, the Arkansas Gazette, the Arkansas Democrat, the Salisbury [Maryland] Daily Times, the Memphis Commercial Appeal, and the Omaha World-Herald. I commend all of the articles to my colleagues. The reading is truly enlightening.

I believe we missed a great opportunity during tax reform to close this loophole. However, we can redress that wrong by taking action this year. At a time when we are cutting funds to the poor, the ill, the elderly, and true family farmers, Congress should not dole out half a billion dollars to a handful of undeserving companies.

I urge my colleagues to give close consideration to this legislation. I particularly welcome input from those who are affected. Everyone should be on notice, however, that this is a change whose time has come.

I ask unanimous consent that the bill be printed at the close of my remarks.

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

S. 311

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

SECTION 1. DENIAL OF USE OF CASH ACCOUNTING FOR ALL CORPORATIONS ENGAGED IN FARM PRODUCT PROCESSING WITH GROSS RECEIPTS IN EXCESS OF $100,000,000.

(a) IN GENERAL.—Section 447 of the Internal Revenue Code of 1986 (relating to

method of accounting for corporations engaged in farming) is amended by adding at the end thereof the following new subsections:

"(i) SUBSECTIONS (C) AND (H) ONLY TO APPLY TO Corporations Engaged in Farm Product Processing Having Gross Receipts of $100,000,000 or Less.—A corporation engaged in farm product processing shall not be treated as being described in subsection (c)(1) or (2) or subsection (h) unless such corporation meets the requirements of subsection (e), except that subsection (e) shall be applied—

"(1) by substituting '$100,000,000' for '$1,000,000', and

"(2) by substituting '1986' for '1975'.

"(j) CORPORATIONS ENGAGED IN FARM PRODUCT PROCESSING.—

"(1) GENERAL RULE.—For purposes of this section, a corporation shall be treated as engaged in farm product processing if such corporation, including any person related to such corporation or any partnership in which such corporation or related person is a partner, engages in the slaughter, evisceration, processing, or other transformation of any crop, animal, or other farm product.

"(2) RELATED PERSON.—For purposes of paragraph (1), a person is a related person to another person if—

"(A) the relationship between such persons would result in a disallowance of losses under section 267 or 707(b), or

"(B) such persons are corporations and the members of the same 3 or fewer families own at least 50 percent of the total combined voting power of all classes of stock entitled to vote or at least 50 percent of the total value of shares of all classes of stock of each such corporation.".

(b) MODIFICATION OF COORDINATION WITH SECTION 481.—Section 447(f) of the Internal Revenue Code of 1986 (relating to coordination with section 481) is amended by adding at the end thereof the following new sentence:

"In the case of any change in method of accounting required by subsection (i), paragraph (3) shall be applied by substituting '4 taxable years' for '10 taxable years'."

(c) CONFORMING AMENDMENT.—Section 447(d) of the Internal Revenue Code of 1986 (relating to members of the same family) is amended by striking out "subsection (c)(2)" and inserting in lieu thereof "subsections (c)(2) and (j)(2)".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1987.●

By Mr. STAFFORD (for himself, Mr. MOYNIHAN, and Mr. SYMMS) (by request):

S. 312. A bill to authorize appropriations for certain highways in accordance with title 23, United States Code, and for other purposes; to the Committee on Environment and Public Works.

ESSENTIAL HIGHWAY REAUTHORIZATION AMENDMENTS

● Mr. STAFFORD. Mr. President, because highway legislation was not completed last year, the Committee on Environment and Public Works plans to consider a highway bill as quickly as possible. For that reason, I ask unanimous consent that the highway legislation I am introducing today by request for the administration be printed in the RECORD. I also ask unanimous consent that the attached section-by-section analysis and the transmittal letter from Secretary Dole also be printed in the RECORD.

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

S. 312

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Essential Highway Reauthorization Amendments of 1987".

TITLE I

SHORT TITLE

SEC. 101. This title may be cited as the "Federal-Aid Highway Act of 1987".

AUTHORIZATIONS

SEC. 102. (a) The following sums are hereby authorized to be appropriated out of the Highway Account of the Highway Trust Fund:

(1) For the Federal-aid Interstate-primary program $8,160,000,000 per fiscal year for each of the fiscal years ending September 30, 1987, September 30, 1988, September 30, 1989, and September 30, 1990, and such sums as may be necessary to carry out the minimum apportionment requirements of section 104(d)(1)(A)(iii)(IV).

(2) For the Interstate substitution program $500,000,000 per fiscal year for each of the fiscal years ending September 30, 1987, September 30, 1988, September 30, 1989, and September 30, 1990.

(3) For the bridge replacement and rehabilitation program $1,250,000,000 per fiscal year for each of the fiscal years ending September 30, 1987, September 30, 1988, September 30, 1989, and September 30, 1990.

(4) For carrying out the territorial highway program under section 215(a) of title 23, United States Code—

(A) for the Virgin Islands, $5,000,000 per fiscal year for each of the fiscal years ending September 30, 1987, September 30, 1988, September 30, 1989, and September 30, 1990;

(B) for Guam, $5,000,000 per fiscal year for each of the fiscal years ending September 30, 1987, September 30, 1988, September 30, 1989, and September 30, 1990;

(C) for American Samoa, $1,000,000 per fiscal year for each of the fiscal years ending September 30, 1987, September 30, 1988, September 30, 1989, and September 30, 1990;

(D) for the Commonwealth of the Northern Mariana Islands, $1,000,000 per fiscal year for each of the fiscal years ending September 30, 1987, September 30, 1988, September 30, 1989, and September 30, 1990.

(5) For carrying out the Federal Lands Highways Program under section 204 of title 23, United States Code—

(A) for forest highways, $75,000,000 per fiscal year for each of the fiscal years ending September 30, 1987, September 30, 1988, September 30, 1989, and September 30, 1990;

(B) for public lands highways, $25,000,000 per fiscal year for each of the fiscal years ending September 30, 1987, September 30, 1988, September 30, 1989, and September 30, 1990;

(C) for Indian reservation roads, $75,000,000 per fiscal year for each of the fiscal years ending September 30, 1987, September 30, 1988, September 30, 1989, September 30, 1990;

(D) for park roads and parkways, $75,000,000 per fiscal year for each of the fiscal years ending September 30, 1987, September 30, 1988, September 30, 1989, September 30, 1990.

(6) For carrying out highway safety programs under section 402 of title 23, United States Code, by the Federal Highway Administration, $10,000,000 per fiscal year for each of the fiscal years ending September 30, 1987, September 30, 1988, September 30, 1989, September 30, 1990.

(7) For projects for the elimination of hazards of railway-highway crossings on any public road under section 130 of title 23, United States Code, $190,000,000 per fiscal year for each of the fiscal years ending September 30, 1987, September 30, 1988, September 30, 1989, September 30, 1990.

(8) For projects for elimination of hazards under section 152 of title 23, United States Code $175,000,000 per fiscal year for each of the fiscal years ending September 30, 1987, September 30, 1988, September 30, 1989, September 30, 1990.

(9) For the minimum apportionment under section 104 of title 23, United Sttes Code, such sums as may be necessary not to exceed $500,000,000 per fiscal year for each of the fiscal years ending September 30, 1987, September 30, 1988, September 30, 1989, September 30, 1990.

(10) For projects for emergency relief under section 125 of title 23, United States Code, $100,000,000 per fiscal year for each of the fiscal years ending September 30, 1987, September 30, 1988, September 30, 1989, September 30, 1990.

(b) There is authorized to be appropriated out of the Highway Account of the Highway Trust Fund for administrative expenses for Motor Carrier Safety $24,744,000 per fiscal year for each of the fiscal years ending September 30, 1987, September 30, 1988, September 30, 1989, September 30, 1990.

(c)(1) For each fiscal year, the authorization for the Federal-aid Interstate-primary program shall be increased by the amount that the average annual net highway tax receipts into the Highway Account of the Highway Trust Fund for the fiscal years 1987 through 1990, as estimated by the Secretary of the Treasury for the mid-session review immediately preceding the year of authorization, exceed the average annual net highway tax receipts into the Highway Account of the Highway Trust Fund for the fiscal years 1987 through 1990, as estimated by the Secretary of the Treasury in January of 1987 for the President's 1988 Budget.

(2) For each fiscal year that average annual net highway tax receipts into the Highway Account of the Highway Trust Fund for the fiscal years 1987 through 1990, as estimated by the Secretary of the Treasury in the mid-session review immediately preceding the year of authorization are less than average annual net highway tax receipts into the Highway Account of the Highway Trust Fund for the fiscal years 1987 through 1990, as estimated by the Secretary of the Treasury in January of 1987 for the President's 1988 Budget, authorizations will be reduced by the amount of such difference proportionately from the authorizations for the Highway Block Grant, the Federal-aid Interstate-primary program and the bridge replacement and rehabilitation program.

MAIN PUBLIC ROADS

SEC. 103. Section 101(a) of title 23, United States Code, is amended by adding the following: "the term 'main public road' means a public road that is not on a Federal-aid system and that is a rural major collector

route, or a high traffic volume arterial and collector route in an urban area, including a route which provides access to an airport or other transportation terminal.".

INCOME FROM RIGHTS-OF-WAY

SEC. 104. Section 102 of title 23, United States Code, is amended to read as follows:

"§ 102. Income from rights-of-way

"States shall charge, as a minimum, fair market value, with exceptions granted at the discretion of the Secretary for social, environmental, and economic mitigation purposes, for the sale, use, lease or lease renewals, other than for utility use and occupancy, of right-of-way airspace acquired as a result of a project under this chapter. This section applies to new airspace usage proposals, renewals of prior agreements, arrangements, or leases entered into by the state subsequent to the effective date of this section. The federal share of net income from the revenues obtained by the State for sales, uses or leases under this section shall be used by the State for projects eligible under this chapter or chapter 5.".

FEDERAL-AID SYSTEMS

SEC. 105. Section 103 of title 23, United States Code, is amended to read as follows:

"§ 103. Federal-aid systems

"(a) The Federal-aid primary system is established and continued pursuant to this section and shall consist of an adequate system of connected main routes important to interstate, statewide, and regional travel, consisting of rural arterial routes and their extensions into or through urban areas. The Federal-aid primary system shall be as designated by each State acting through its State highway department. The Secretary shall have authority to approve in whole or in part the Federal-aid primary system as and when such system or portions thereof is designated, or to require modifications or revisions thereof.

"(b)(1) The Interstate System is established and continued, shall be designated within the United States, including the District of Columbia, and shall not exceed forty-three thousand miles in total extent. It shall be so located as to connect by routes, as direct as practicable, the principal metropolitan areas, cities, and industrial centers, to serve the national defense, and to the greatest extent possible, to connect at suitable border points with routes of continental importance in the Dominion of Canada and the Republic of Mexico. The routes of this system, to the greatest extent possible, shall be selected by joint action of the State highway department of each State and the adjoining States. All highways or routes included in the Interstate System as finaliy approved if not already coincident with the primary system, shall be added to said system. The Interstate System may be located both in rural and urban areas. After the date of enactment of the Federal-Aid Highway Act of 1987, the Secretary may not designate any mileage as part of the Interstate System pursuant to this paragraph or under any other provision of law. The preceding sentence shall not apply to a designation made under section 139 of this title.

"(2)(A) Sums made available to the Secretary under section 103(e)(4) of this title, before October 1, 1986, in substitution for withdrawn Interstate routes or portions thereof, shall be available to the Secretary to incur obligations for the Federal share of either public mass transit capital projects, highway construction projects on a Federal-aid system or on any main public road, or for activities provided in sections 134 and 307, which will serve the area or areas from which the Interstate route or portion was withdrawn, which shall be selected by the responsible local officials of the area or areas to be served, and which are submitted by the Governors of the States in which the withdrawn route was located, except if the withdrawn route was not within an urbanized area or did not pass through and connect urbanized areas, substitute projects shall be selected by the Governor or the Governors of the State or the States in which the withdrawn route was located, in consultation with the responsible local officials of the area or areas to be served. Federal-aid highway construction projects constructed with funds under this paragraph shall be subject to all provisions of this title applicable to the appropriate Federal-aid system. Off system highway construction projects constructed with funds under this paragraph shall be subject to the provisions of this title applicable to Federal-aid primary system, projects: *Provided,* That highway block grant procedures under chapter 5 may be used at the discretion of the Secretary.

"(B) Approval by the Secretary of the plans, specifications, and estimates for a substitute project shall be deemed to be a contractual obligation of the Federal Government.

"(C) Funds available for expenditure to carry out the purposes of this paragraph shall be supplementary to and not in substitution for funds authorized and available for obligation pursuant to the Urban Mass Transportation Act of 1964, as amended. The provisions of section 3(e)(4) of the Urban Mass Transportation Act of 1964, as amended, shall apply in carrying out this paragraph.

"(C) Notwithstanding any other provision of law, upon approval of any Federal-aid system withdrawal, deletion, or location modification—

"(1) a State shall not be required to refund to the Highway Account of the Highway Trust Fund any sums paid to the State for intangible costs;

"(2) a State shall refund to the Highway Account of the Highway Trust Fund the costs of construction items, materials, and rights-of-way, except that, subject to the approval of the Secretary, a refund will not be required if such items, materials, and rights-of-way have been or will be applied by the State or political subdivision thereof to a transportation project under this title within ten years from the date of approval of such system action;

"(3) nothing in this subsection shall in any way alter rights under State law of persons owning property within the right-of-way immediately prior to such property being obtained by the State; and

"(4) the Federal share of the cost of construction items, materials, and rights-of-way sold, transferred to previous owners under State law, or otherwise not used for a transportation project shall be refunded and credited to the State's unobligated balance for the Federal-Aid Interstate-Primary Program.".

APPORTIONMENT AND ALLOCATION

SEC. 106. Section 104 of title 23, United States Code, is amended to read as follows:

"§ 104. Apportionment and allocation

"(a) On October 1 of each fiscal year, or as soon thereafter as is practicable, the Secretary shall deduct not to exceed 3¾ per centum of the sums authorized to be appropriated for expenditure for any purpose under this chapter for that fiscal year for the purpose of administering the provisions of law to be financed from appropriations for this chapter and for carrying on the research authorized by subsections (a) and (b) of sections 307 and 403. In making a determination, the Secretary shall take into account the unexpended balance of any sums deducted in prior years. The sum deducted shall be available for expenditure until expended from the unexpended balance of any appropriations made at any time for expenditure for this chapter.

"(b)(1) On October 1 of each fiscal year, or as soon thereafter as is practicable, the Secretary, after making the deduction authorized by subsection (a) shall deduct one-half per centum of the remaining funds authorized to be appropriated for the Federal-aid Interstate-primary program for that fiscal year for the purpose of carrying out the objective of section 134.

"(2) Funds deducted under paragraph (1) shall be apportioned to the States in the ratio which the population in urbanized areas or parts thereof, in each State bears to the total population in urbanized areas in all the States as shown by the latest available census, except that no State shall receive less than one-half per centum of the amount apportioned.

(3) The funds apportioned to any State under paragraph (2) shall (A) in urbanized areas of two hundred thousand population or more be made available by the State to the metropolitan planning organizations designated as being responsible together with the State for carrying out the objective of section 134, and (B) in urbanized areas with population between fifty and two hundred thousand be available to the State for carrying out the objective of section 134 except that a State receiving the minimum apportionment under paragraph (2) may, in addition, subject to the approval of the Secretary, use the funds apportioned to finance transportation planning outside of urbanized areas. These funds shall be matched in accordance with section 120 unless the Secretary determines that the interests of the Federal-aid highway program will be best served without such matching.

"(4) The distribution within any State of the planning funds made available under paragraph (3) shall be in accordance with a formula developed by each State and approved by the Secretary which shall consider but not necessarily be limited to or include, population, status of planning, and urbanized area transportation needs.

"(c) On October 1 of each of the fiscal years, ending September 30, 1987, September 30, 1988, September 30, 1989, September 30, 1990, and September 30, 1991, or as soon thereafter as is practicable, the Secretary, after making deductions authorized by subsections (a) and (b), shall deduct one-quarter per centum of the remaining funds authorized to be appropriated for that fiscal year for the Federal-aid Interstate-primary, bridge replacement and rehabilitation, Interstate substitution, railway-highway crossings, and the hazard elimination programs for the purpose of carrying out the objectives of the Strategic Highway Research Program under section 133.

"(d)(1) On October 1 of each fiscal year, or as soon thereafter as is practicable, the Secretary, after making the deductions authorized by subsections (a), (b) and (c) shall apportion sums authorized to be appropriated for that fiscal year for the Federal-aid

Interstate-primary, bridge replacement and rehabilitation, Interstate substitution, railway-highway crossings, and hazard elimination programs among the several States in the following manner:

(A) For the Federal-aid Interstate-primary program—

(i) For each of the fiscal years 1987, 1988, 1989, and 1990, $2,000,000,000 shall be apportioned in the ratio which the estimated cost of completing the Interstate System in each State bears to the sum of the estimated cost of completing the Interstate System in all of the States as established in the Interstate Cost Estimate transmitted to the Congress in January of 1987 *provided* that the Secretary shall, as soon as is practicable, adjust the 1987 Interstate Cost Estimate to reflect previous allocations of Interstate discretionary funds and; *Provided* That no State shall receive more than its total cost to complete as contained in the adjourned 1987 Interstate Cost Estimate.

"(ii) 55 per centum of the sums remaining after the apportionment in paragraph (i) shall be apportioned (I), 55 per centum in the ratio that lane miles on the Interstate routes designated under sections 103 and 139(c) (other than those on toll roads not subject to a Secretarial agreement) in each State bears to the total of all such lane miles in all States and (II), 45 per centum in the ratio that vehicle miles traveled on lanes on the Interstate routes designated under sections 103 and 139(c) (other than those on toll roads not subject to a Secretarial agreement) in each State bears to the total of all such vehicle miles in all States. No State shall receive less than one-half per centum of the total apportionment under this paragraph.

"(iii) 45 per centum of the sums remaining after the apportionment in paragraph (i) shall be apportioned in accord with this paragraph:

"(I) The Secretary shall determine for each State the higher of the amount which would be apportioned under a formula where (aa) two-thirds would be apportioned, one-third in the ratio which the area of each State bears to the total area of all the States, one-third in the ratio which the population of rural areas of each State bears to the total population of rural areas of all the States as shown by the latest available Federal census, and one-third in the ratio which the mileage of rural delivery routes and intercity mail routes where service is performed by motor vehicles in each State bears to the total mileage of rural delivery and intercity mail routes where service is performed by motor vehicles as shown by a certificate of the Postmaster General, which shall be made and furnished annually to the Secretary, and one-third would be apportioned in the ratio which the population in urban areas in each State bears to the total population in urban areas in all the States as shown by the latest Federal census with no State (other than the District of Columbia) to receive less than one-half per centum of each year's apportionment and the amount which would be apportioned to such State under a formula where (bb) each State would be apportioned one-half in the ratio which the population of rural areas of each State bears to the total population of rural areas in all the States as shown by the latest Federal census.

"(II) The Secretary shall total the amounts determined for each State under paragraph I and shall determine the ratio which the 45 per centum apportioned under paragraph (iii) bears to such total.

"(III) The amount which shall be apportioned to each State under paragraph (iii) shall be the amount determined for such State under paragraph (I) multiplied by the ratio determined under paragraph (II).

"(IV) No State shall receive an apportionment under paragraph (iii) which is less than the lower of (aa), the amount which the State would be apportioned under the formula in paragraph (I)(aa), and (bb), the amount which the State would be apportioned under the formula in paragraph (I)(bb). No State shall receive less than one-half per centum of the total apportionment under paragraph (iii).

"(B)(i) From authorizations for the bridge replacement and rehabilitation program the Secretary shall set aside $250,000,000 per fiscal year on October 1 of each of the fiscal years 1987 through 1990, or as soon thereafter as is practicable, for the discretionary bridge replacement and rehabilitation program.

"(ii) The remaining sums authorized to be appropriated for those fiscal years shall be apportioned by placing each deficient bridge on the Federal-aid primary system (other than Interstate System) in category (I), Federal-aid primary system (other than Interstate System) bridges eligibile for replacement, or (II), Federal-aid primary system (other than Interstate System) bridges eligible for rehabilitation. The square footage of deficient bridges in each category shall be multiplied by the respective unit price on a State-by-State basis, as determined by the respective unit price on a State-by-State basis, as determined by the Secretary; and the total cost in each State divided by the total cost of the deficient bridges in all States shall determine the apportionment factors. No State shall receive more than 10 per centum or less than 0.25 per centum of the total apportionment for any fiscal year. The Secretary shall make these determinations based upon the latest available data, which shall be updated annually.

"(C) For the Interstate substitution program 75 per centum of the funds authorized to be appropriated for each fiscal year shall be apportioned in the ratio that the withdrawal value for substitute projects for a State less amounts previously made available to that State for substitute projects bears to the withdrawal value for substitute projects for all the States less amounts previously made available to all the States for substitute projects.

"(D) For the railway-highway crossings program as follows:

"(i) 25 per centum: (I), one-third in the ratio which the area of each State bears to the total area of all the States, (II), one-third in the ratio which the population of rural areas of each State bears to the total population of rural areas of all of the States as shown by the latest available Federal census, and (III), one-third in the ratio which the mileage of rural delivery and intercity mail routes where service is performed by motor vehicles, as shown by a certificate of the Postmaster General, which shall be made and furnished annually to the Secretary, in each State bears to the total mileage of rural delivery and intercity mail routes where service is performed by motor vehicles in all the States. No State (other than the District of Columbia) shall receive less than one-half per centum of the apportionment under this paragraph:

"(ii) 25 per centum: in the ratio that the population in urban areas, or parts thereof, in each State bears to the total population in urban areas, or parts thereof, in all States as shown by the latest available Federal census. No State shall receive less than one-half per centum of the apportionment under this paragraph; and

"(iii) 50 per centum in the ratio that total railway-highway crossings in each State bears to the total of such crossing in all the States.

"(E) For the hazard elimination program—apportionments shall be made as provided in section 402(c).

"(2) As soon as is practicable in each fiscal year the Secretary shall, after making the deductions authorized by subsections (a), (b), and (c) and the apportionments required by paragraphs (d) (1) (B) and (C), allocate sums authorized to be appropriated for the bridge replacement and rehabilitation program and the Interstate substitution program in the following manner:

"(A) The set-aside for the discretionary bridge replacement and rehabilitation program shall be allocated pursuant to the regulations in section 650 of title 23, Code of Federal Regulations, subpart D, as may be amended, for projects for primary system (other than Interstate System) highway bridges the replacement or rehabilitation cost of each of which is more than $10,000,000, and for projects for primary system (other than Interstate System) highway bridges the replacement or rehabilitation cost of which is less than $10,000,000 if such cost is at least twice the amount apportioned to the State in which such bridge is located under paragraph (d) (1) (B) for the fiscal year in which application is made for a grant for such bridge.

"(B) For the Interstate substitution program unapportioned funds shall be allocated at the discretion of the Secretary: *Provided,* That the Secretary shall give priority to withdrawal areas that have ready-to-go substitute projects that will complete their programs.

"(e)(1) On October 1 of each fiscal year, or as soon thereafter as is practicable, the Secretary shall apportion among the States amounts sufficient to insure that a State's percentage of the total apportionments in such fiscal year and allocations for the prior fiscal year from the Highway Account of the Highway Trust Fund, except for the minimum apportionment under this paragraph and apportionments or allocations for forest highways, Indian reservation roads, and parkways and park roads under section 202, highway related safety grants authorized by section 402, nonconstruction safety grants authorized by sections 402, 406, and 408, and Motor Carrier Safety Grants authorized by section 404 of the Surface Transportation Assistance Act of 1982, shall not be less than 85 per centum of the percentage of estimated tax payments attributable to highway users in that State paid into the Highway Account of the Highway Trust Fund in the latest fiscal year for which data are available: *Provided,* That total apportionments under this paragraph shall not exceed $500,000,000 per fiscal year for each of the fiscal years 1987, 1988, 1989 and 1990 and that eligible States shall receive a proportionate share of that sum in those fiscal years. Any funds which are withheld, reduced, or reserved from apportionment in a fiscal year by reason of failure to comply with a provision of this title or any other provision of law shall be treated as being apportioned in such year for purposes of calculating the apportionment under this paragraph.

"(2) Amounts apportioned under paragraph (1) may be obligated for highway construction projects on a Federal-aid system or on any main public road and shall be available for obligation under section 118. Federal-aid system projects constructed with funds under this subsection shall be subject to all provisions of this title applicable to the appropriate Federal-aid system. Off system projects constructed with funds under this subsection shall be subject to the provisions of this title applicable to Federal-aid primary system projects: *Provided*, That highway block grant procedures under chapter 5 may be used at the discretion of the Secretary.

"(f) On October 1 of each fiscal year, or as soon thereafter as is practicable, the Secretary shall certify to each of the States the sums apportioned and deducted in that fiscal year under this section. To permit the States to develop adequate plans for the utilization of apportioned sums, the Secretary shall, if possible, advise each State of the amount that will be apportioned each year under this section not later than ninety days before the beginning of the fiscal year of apportionment.

"(g) Not more than 40 per centum of the amount apportioned in any fiscal year to each State under paragraphs 104(d)(1)(B), 104(d)(1)(D), and 104(d)(1)(E) may be transferred from the apportionment under one paragraph to the apportionment under any other of such paragraphs if a transfer is requested by the State highway department and is approved by the Secretary as being in the public interest. The Secretary may approve the transfer of 100 per centum of the apportionment under one paragraph to the apportionment under any other of the paragraphs if a transfer is requested by the State highway department, and is approved by the Secretary as being in the public interest, and if the Secretary has received satisfactory assurances from the State highway department that the purposes of the program from which the funds are to be transferred have been met.".

ADVANCE ACQUISITION OF RIGHTS-OF-WAY

SEC. 107 (a) Section 108(c)(2) of title 23, United States Code, is amended by (1) striking ", without interest," and (2) adding at the end the following: "Advances for projects on the Interstate System shall be without interest. A State shall pay interest on other advances at the "current value of funds rate" used for Highway Trust Fund investments as prescribed and published by the Secretary of the Treasury, in effect at the time funds are advanced to the State and shall remain in effect until such advance is repaid.".

(b) Section 108(c)(3) of title 23, United States Code, is amended by striking the period at the end and inserting in its place "and in an amount equal to the interest due for deposit in and credit to, the Highway Account of the Highway Trust Fund.".

AGREEMENTS RELATING TO USE OF RIGHTS-OF-WAY

SEC. 108. Section 111 of title 23, United States Code, is amended by striking out the period at the end of the second sentence and inserting in lieu thereof ": *Provided, however*, That deliveries of duty free store merchandise to motor vehicle occupants at United States border crossings are allowable for the sole purpose of facilitating United States Customs Service supervision of exports, when the deliveries will not impair the full use and safety of the highways.".

LETTING OF CONTRACTS

SEC. 109. Section 112(b) of title 23, United States Code, is amended by inserting "or that an emergency situation exits" before the period at the end of the first sentence.

CONSTRUCTION

SEC. 110. (a) Section 114 of title 23, United States Code, is amended to read as follows:

"§ 114. Construction

"(a) The construction of any highway located on a Federal-aid system shall be undertaken by the respective State highway departments or under their direct supervison. The Secretary shall establish procedures for the Federal inspection and approval of construction. The construction work and labor in each State shall be performed under the laws of the State and applicable Federal laws. The State hghway department shall not erect any informational signs other than official traffic control devices conforming with standards approved by the Secretary on any project.

"(b) Convict labor shall not be used in construction except where performed by convicts on parole, supervised release, or probabtion.".

(b) The second sentence of section 121(c) of title 23, United States Code, is amended by striking out the words "following inspections".

MAINTENANCE

SEC. 111. Section 116 of title 23, United States Code, is amended by adding subsection (f) as follows:

"(f) The Secretary shall issue guidelines describing criteria applicable to the Interstate System in order to insure that the condition of these routes is maintained at the level required by the purposes for which they were designed and each State shall establish a program for maintaining the Interstate System in accordance with the guidelines. Each State shall certify, on January 1 of each year, that it has a maintenance program and that the Interstate System is being maintained under that program. If a State fails to certify as required, or if the Secretary determines that a State is to adequately maintaining the Interstate System, then the next apportionment of funds to the State for the Federal-aid Interstate-primary program shall be reduced by amounts of not more than 10 per centum of the amount which would otherwise be apportioned. If, within one year from the date of a reduction, the Secretary determines that the State is maintaining the Interstate System under the guidelines the apportionment of the State shall be increased by an amount equal to the reduction. If the Secretary does not make a favorable determination, within one year of a reduction, the amount of the reduction shall be reapportioned to all other eligible States"."

CERTIFICATION ACCEPTANCE

SEC. 112. (a) Section 117(a) of title 23, United States Code, is amended by (1) inserting "with an estimated cost of construction of less than $1,000,000" after "to projects" and by (2) striking ", except the Interstate System".

(b) Section 117(b) of such title is amended by striking "shall make a final inspection of each such project upon its completion and".

(c) Section 117(f) of such title is repealed.

SEC. 113. Section 118 to title 23, United States Code, is amended to read as follows:

"§ 118. Availability

"(a) On and after the date that the Secretary has certified to each State the sums apportioned or allocated under this title the sums shall be available for obligation.

"(b)(1) Sums apportioned for the Federal-aid Interstate-primary program in a State shall remain available for obligation in that State for a period of three years after the close of the fiscal year for which the sums are authorized and any amounts remaining unobligated at the end of the period shall lapse.

"(2)(A) Sums apportioned for bridge replacement and rehabilitation in a State shall remain available for obligation in that State for a period of three years after the close of the fiscal year for which the sums are authorized and any amounts apportioned remaining unobligated at the end of the period shall be allocated by the Secretary under section 104.

"(B) Sums allocated for bridge replacement and rehabilitation in a State shall remain available for obligation in that State until the close of the fiscal year of allocation and any amount remaining unobligated at the end of the period shall be reallocated by the Secretary under section 104.

"(3) Sums apportioned or allocated for the Interstate substitution program in a State shall remain available for obligation in that State for one year after the close of the fiscal year in which the sums are apportioned or allocated and any amounts remaining unobligated at the end of the period shall be reapportioned or reallocated, as the case may be, among those States which have obligate all sums apportioned or allocated, as the case may be, to them.

"(4) Sums apportioned for the minimum apportionment program in a State shall remain available for obligation in that State for three years after the close of the fiscal year in which the sums are apportioned and any amounts remaining unobligated at the end of the period shall lapse.

"(5) Sums authorized for emergency relief shall remain available for obligation for two years after the close of the fiscal year for which they are authorized and any amounts remaining unobligated at the end of the period shall lapse.

"(6) Sums apportioned or allocated for a particular purpose for any fiscal year shall be deemed to be obligated if a sum equal to the total of the sums apportioned or allocated to the State for that purpose for that fiscal year and previous fiscal years is obligated. Any funds released by the payment of the final voucher or by the modification of the formal project agreement shall be credited to the same class of funds previously apportioned or allocated to the State and be immediately available for obligation.

"(d) Funds made available to the State of Alaska under this title may be expended for construction of access and development roads on a Federal-aid system that will serve resource development, recreational, residential, commercial, industrial, or other like purposes.".

FEDERAL SHARE PAYABLE

SEC. 114. Section 120 of title 23, United States Code, is amended as follows:

"§ 120. Federal share payable

"(a) The Federal share payable on account of any project, financed with Federal-aid Interstate-primary program funds, on the Federal-aid primary system (other than the Interstate System as designated in sections 103(b) and 139(c) and as designated prior to March 9, 1984, in section 139(a) and (b)), or with bridge replacement and rehabilitation program funds shall either (1) not exceed 75 per centum of the cost of con-

struction, except that in the case of any State containing nontaxable Indian lands, individual and tribal, and public domain lands (both reserved and unreserved), exclusive of national forests and national parks and monuments, exceeding 5 per centum of the total area of all lands therein, the Federal share may be increased by a percentage of the remaining costs equal to the percentage that the area of all such lands in such States, is of its total area, or (2) not to exceed 75 per centum of the cost of construction, except that in the case of any State containing nontaxable Indian lands, individual and tribal, public domain lands (both reserved and unreserved), national forests, and national parks and monuments, the Federal share may be increased by a percentage of the remaining cost equal to the percentage that the area of all such lands in such States is of its total area, except that the Federal share payable on any project in a State shall not exceed 95 per centum of the total cost of any such project. In any case where a State elects to have the Federal share provided in clause (2), the State must enter into an agreement with the Secretary covering a period of not less than one year, requiring such State to use solely for highway construction purposes (other than paying its share of projects approved under this title) during the period covered by the agreement the difference between the State's share as provided in clause (2) and what its share would be if it elected to pay the share provided in clause (1) for all projects subject to the agreement.

"(b) The Federal share payable on account of any project financed with Federal-aid Interstate-primary program funds on the Interstate System, as designated in sections 103(b) and 139(c) and as designated prior to March 9, 1984, in sections 139(a) and (b) shall not exceed 90 per centum of the total cost, plus a percentage of the remaining 10 per centum of the cost in any State containing unappropriated and unreserved public lands and nontaxable Indian lands, individual and tribal, exceeding 5 per centum of the total area of all lands therein, equal to the percentage that the area of the lands in the State is of its total area, except that the Federal share payable on any project in any State shall not exceed 95 per centum of the total cost of the project.

"(c) The Federal share payable on account of any project financed with Interstate substitution program funds shall not exceed 85 per centum of the cost.

"(d) The Secretary may rely on an annual statement to be provided by the Secretary of the Interior on the area of the lands referred to in subsections (a) and (b).

"(e) The Federal share payable on account of any project, financed with emergency relief funds under section 125, on the Federal-aid primary system (other than the Interstate System designated in section 103(b)) shall not exceed the Federal share payable provided in subsection (a) and on the Interstate System shall not exceed the Federal share payable provided in subsection (b): *Provided*, That the Federal share payable for eligible emergency repairs to minimize damage, protect facilities or restore essential traffic accomplished within thirty days after the actual occurrence may amount to 100 per centum of the cost: *And Provided*, That the Federal share payable on account of any project on Federal roads pursuant to section 204 and forest development and public lands development roads may amount to 100 per centum of the cost. The total cost of a project may not exceed the cost of repair or reconstruction of a comparable facility. As used in this section with respect to bridges and in section 144, 'a comparable facility' shall mean a facility which meets the current geometric and construction standards required for the types and volume of traffic which the facility will carry over its design life.

"(f) The Federal share payable on account of any project under this title in the Virgin Islands, Guam, American Samoa, or the Commonwealth of the Northern Mariana Islands shall not exceed 100 per centum of the total cost of the project.

"(g) The Federal share payable on account of any project financed under sections 104(b) and 307(c) shall not exceed 85 per centum, except that in the case of any State containing nontaxable Indian lands, individual and tribal, and public domain lands (both reserved and unreserved) exclusive of national forests and national parks and monuments, exceeding 5 per centum of the total area of all lands therein, the Federal share may be increased by a percentage of the remaining cost equal to the percentage that the area of all such lands in such State is of its total, area, except that the Federal share payable on any project in any State shall not exceed 95 per centum of the total cost of the project.

"(h) The Federal share payable on account of a project financed with minimum apportionment funds off the Federal-aid systems or on the Federal-aid primary system (other than the Interstate System) shall not exceed the Federal share payable provided in subsection (a) and on the Interstate System shall not exceed the Federal share payable provided in subsection (b).

"(i)(1) The Federal share payable on account of a project, financed with railway-highway crossings funds or hazard elimination funds shall not exceed 90 per centum of the cost of construction.

"(2) The Federal share payable on account of any project for the elimination of hazards of railway-highway crossings financed with Federal-aid Interstate-primary program funds, as more fully described and subject to the conditions and limitations set forth in section 130(a), may amount to 100 per centum of the cost of construction of the projects, except that not more than 75 per centum of the right-of-way and property damage costs, paid from public funds, on any such project, may be paid from sums apportioned in accordance with section 104(d)(1)(A): *Provided*, That not more than 10 per centum of all the sums apportioned for any fiscal year in accordance with section 104(d)(1)(A) shall be used under this paragraph.

"(j) The Secretary is authorized to cooperate with the State highway departments and with the Department of the Interior in the construction of Federal-aid highways within Indian reservations and national parks and monuments under the jurisdiction of the Department of the Interior and to pay the amount assumed therefor from the funds apportioned under section 104 to the State where the reservations and national parks and monuments are located.

"(k) A State may contribute an amount in excess of its normal share for any project under this title so as to decrease the Federal share payable on the project: *Provided*, That the use of this provision shall be subject to criteria established by the Secretary.

"(l) The Federal share payable on account of any project, financed with Federal Lands Highways funds under section 202 and 204, may amount to 100 per centum of the cost.".

EMERGENCY RELIEF

SEC. 115. Section 125 of title 23, United States Code, is amended to read as follows:

"§ 125. Emergency relief

"(a) Funds authorized for this section shall be available for obligation by the Secretary under the provisions of this title for the repair or reconstruction of highways which the Secretary shall find have suffered serious damage as the result of (1) a natural disaster over a wide area such as by floods, hurricanes, tidal waves, earthquakes, or severe storm, or (2) a catastrophic failure from any external cause, in any part of the United States. In no event shall funds be used pursuant to this section for the repair or reconstruction of bridges which have been permanently closed to all vehicular traffic by the State or responsible local official because of imminent danger of collapse due to structural deficiencies or physical deterioration. The Secretary may expend from any funds heretofore or hereafter appropriated for expenditure in accordance with the provisions of this title including existing Federal-aid appropriations, such sums as may be necessary for the immediate execution of the work herein authorized, such appropriations to be reimbursed from appropriations for emergency relief when made.

"(b) The Secretary may expend funds authorized for this section for the repair or reconstruction of highways on the Primary System including the Interstate System, under the provisions of this chapter: *Provided*, That obligations for projects under this section, including those on highways and roads mentioned in subsection (c), resulting from a single natural disaster or a single catastrophic failure shall not exceed $30,000,000 in any State. Actual and necessary costs of maintenance and operation of ferryboats providing temporary substitute highway traffic service, less the amount of fares charged, may be expended from the funds authorized for this section on the Interstate System and Primary System. Except as to highways, mentioned in subsection (c) of this section, no funds shall be expended unless the Secretary has received an application from the State highway department, and unless an emergency has been declared by the Governor of the State and concurred in by the Secretary, except that if the President has declared the emergency to be a major disaster for the purposes of the Disaster Relief Act of 1974 (Public Law 93-288) concurrence of the Secretary is not required.

"(c) The Secretary may expend funds from the funds authorized for this section, either independently or in cooperation with any other branch of the Government, State agency, organization, or person, for the repair or reconstruction of roads under section 204, for forest development roads and for public lands development roads.

"(d) For purposes of this section, the Virgin Islands, Guam, American Samoa, and the Northern Mariana Islands shall be considered to be States and part of the United States, and the chief executive officer of each territory shall be considered to be a Governor of a State. The Secretary may expend funds from the sums authorized for this section for the repair or reconstruction of highways eligible for assistance under section 215: *Provided*, That obligations for projects under this subsection shall not exceed $5,000,000 in any fiscal year.".

VEHICLE WEIGHT LIMITATIONS—INTERSTATE SYSTEM

SEC. 116. Section 127(a) of title 23, United States Code, is amended by striking "authorized to be appropriated for any fiscal year under provisions of the Federal-aid Highway Act of 1956 shall be apportioned" and inserting in lieu thereof "shall be apportioned under section 104(d)(1)(A) of this title" and by (b) adding after the word "lapse" the following: "if not released and obligated within the availability period specified in section 118(b)(1) of this title".

TOLL ROADS, BRIDGES, TUNNELS, AND FERRIES

SEC. 117. (a) Section 129(g)(5) of title 23, United States Code, is amended by inserting "and operations between the State of Maine and its off-shore islands" after "Washington".

(b) Section 129 is further amended by addition of subsection (j) as follows:

"(j) Federal-aid Interstate-primary program funds may be obligated for an Interstate 4R project on a toll road designated as part of the Interstate System if an agreement satisfactory to the Secretary has been reached with the State highway department and any public authority with jurisdiction over the toll road prior to the approval of the project that the toll road will become free to the public upon the collection of tolls sufficient to liquidate the cost of the toll road or any bonds outstanding at the time constituting a valid lien against it, and the cost of maintenance and operation and debt service during the period of toll collections. The agreement referred to in the preceding sentence shall contain a provision requiring that if, for any reason, a toll road receiving Federal assistance under this subsection does not become free to the public upon collection of sufficient tolls, as specified in the preceding sentence, Federal funds used for projects on the toll road under this subsection shall be repaid to the Federal Treasury. The repayment shall be deposited in the Highway Account of the Highway Trust Fund.".

RAILWAY-HIGHWAY CROSSINGS

SEC. 118. Section 130 of title 23, United States Code, is amended to read as follows:

"§ 130. Railway-highway crossings

"(a) Except as provided in section 120, the entire cost of construction of projects for the elimination of hazards of railway-highway crossings, including the separation or protection of grades at crossings, the reconstruction of existing railroad grade crossing structures, and the relocation of highways to eliminate grade crossing may be paid from Federal-aid Interstate-primary program funds apportioned under section 104. In any case when the elimination of the hazards of a railway-highway crossing can be effected by the relocation of a portion of a railway at a cost estimated by the Secretary to be less than the cost of the elimination by one of the methods mentioned in the first sentence of this section, then the entire cost of the relocation project, except as provided in section 120, may be paid from Federal-aid Interstate-primary program funds apportioned under section 104.

"(b) The Secretary may classify the various types of projects involved in the elimination of hazards of railway-highway crossings, and may set for each classification a percentage of the costs of construction which shall represent the net benefit to the railroad or railroads for the purpose of determining the railroad's share of the cost of construction. The percentage determined shall not exceed 10 per centum. The Secretary shall determine the appropriate classification of each project.

"(c) Any railroad involved in a project for the elimination of hazards of railway-highway crossings paid for in whole or in part from sums made available for expenditure under this title, shall be liable to the United States for the net benefit to the railroad determined under the classification of the project made under subsection (b). Liability to the United States may be discharged by direct payment to the State highway department of the State in which the project is located, in which case the payment shall be credited to the cost of the project. The payment may consist in whole or in part of materials and labor furnished by the railroad in connection with the construction of the project. If any railroad fails to discharge liability within a six-month period after completion of the project, it shall be liable to the United States for its share of the cost, and the Secretary shall request the Attorney General to institute proceedings against the railroad for the recovery of the amount for which it is liable under this subsection. The Attorney General is authorized to bring proceedings on behalf of the United States, in the appropriate District Court of the United States, and the United States shall be entitled to recover the sums adjudged by the court. Any amounts recovered by the United States under this subsection shall be credited to the project.

"(d) Each State shall conduct and systematically maintain a survey of all highways to identify those railroad crossings which may require separation, relocation, or protective devices, and establish and implement a schedule of projects for this purpose. At a minimum, a schedule shall provide signs for all railroad-highway crossings.

"(e) Funds authorized to carry out this section may be expended for projects for the elimination of hazards of railway-highway crossings on any public road and shall be available for obligation in the same manner as Federal-aid Interstate-primary program funds. At least half of the funds authorized and expended for this section shall be available for the installation of protective devices at railway-highway crossings.".

STRATEGIC HIGHWAY RESEARCH PROGRAM

SEC. 119. Title 23, United States Code, is amended by adding section 133 as follows:

"§ 133. Strategic highway research program

"The sums provided by sections 104 and 501 shall be available for obligation when deducted to implement the Strategic Highway Research Program (SHRP). The Secretary is authorized to carry out the SHRP in cooperation with the State highway departments, as represented by the American Association of State Highway and Transportation Officials (AASHTO). The Secretary shall set standards to use the funds to conduct research, development and technology transfer activities determined to be strategically important to the national highway transportation system. The Secretary may provide grants to, and enter into cooperative agreements with either AASHTO or the National Academy of Science or both to conduct appropriate portions of the SHRP. Advance progress payments may be made as necessary. No State matching share is required. The funds shall be combined and administered by the Secretary as a single fund which shall be available for obligation for the same period as funds apportioned for the Federal-aid Interstate-primary program.".

TRANSPORTATION PLANNING IN CERTAIN URBAN AREAS

SEC. 120. Section 134 of title 23, United States Code, is amended to read as follows:

"§ 134. Transportation planning in certain urban areas

"(a) It is declared to be in the national interest to encourage and promote the development of transportation systems embracing various modes of transportation in a manner that will serve the States and local communities efficiently and effectively. The Secretary shall cooperate with State and local officials in accomplishing this objective. The responsible public officials of any urbanized area of fifty thousand population or more shall be consulted and their views considered with respect to the selection, corridor, location, and design of highway projects in the areas.

"(b) In urbanized areas of two hundred thousand population or more, the Secretary shall cooperate with State and local officials in carrying out a planning process including development of transportation plans and programs which are formulated on the basis of transportation needs with due consideration to comprehensive long-range land use plans, economic development, environmental, and system performance goals and objectives, and with due consideration to their probable effect on the future development of the urbanized areas. The planning process shall also include an analysis of alternative transportation system management and investment strategies to make more efficient use of existing transportation facilities. The process shall consider all appropriate modes of transportation and shall be continuing, cooperative, and comprehensive to the degree appropriate based on the complexity of transportation problems. The Secretary shall ensure that projects in any urbanized area of two hundred thousand or more are based on a continuing comprehensive transportation planning process carried on cooperatively by States and local communities acting through a metropolitan planning organization in conformance with the objective stated in this section.

"(c) Designation of metropolitan planning organizations shall be by agreement among the units of general purpose local government and the Governor.".

SKILL TRAINING

SEC. 121. (a) Section 140(a) of title 23, United States Code, is amended by (1) striking "subsection (a) of section 105 of this title" and inserting in lieu thereof "section 105", by (2) striking "He shall require that each" and inserting in lieu thereof, "Each", by (3) striking "he considers it", by (4) striking "which will enable him" and by (5) striking "he shall deem".

"(b) Section 140(b) of such title is amended by (1) striking "104(b) of this title" and inserting in lieu thereof "104", by (2) striking "such sums as he may deem necessary, not to exceed $2,500,000 for the transition quarter ending September 30, 1976,", by (3) striking $10,000,000" and inserting in lieu thereof "2,500,000" and by (4) striking "to the Secretary".

"(c) Section 140(c) of such title is amended by (1) striking "subsection 104(a) of this title" and inserting in lieu thereof "section 104", by (2) striking "such sums as he may deem necessary," and by (3) striking "to the Secretary".

"(d) Section 140(b) is further amended effective October 1, 1986, by adding at the end thereof the following:

"A State may obligate for skill training 0.1 per centum of the funds apportioned to it under section 104.".

(e) Section 140(b) is further amended effective September 30, 1988, by striking "Whenever apportionments are made under section 104, the Secretary shall deduct not to exceed $2,500,000 per fiscal year, for the administration of this subsection. The sums deducted shall remain available until expended.".

HIGHWAY BRIDGE REPLACEMENT AND REHABILITATION PROGRAM

SEC. 122. Section 144 of title 23, United States Code, is amended to read as follows:

"§ 144. Highway Bridge Replacement and Rehabilitation Program

"(a) Congress finds and declares it to be in the vital interest of the Nation that a highway bridge replacement and rehabilitation program be established to enable the States to replace or rehabilitate Federal-aid primary system (other than Interstate System) highway bridges over waterways, other topographical barriers, other highways, or railroads when the States and the Secretary find that a bridge is significantly important and is unsafe because of structural deficiencies, physical deterioration, or funcational obsolescence.

"(b)(1) The Secretary, in consultation with the States, shall (A), inventory all those highway bridges on public roads which are bridges over waterways, other topographical barriers, other highways, and railroads; (B), classify them according to serviceability, safety, and essentiality for public use; (C), based on that classification, assign each a priority for replacement or rehabilitation; and (D), determine the cost of replacing each bridge with a comparable facility or of rehabilitating the bridge. A current inventory of all bridges subject to the National Bridge Inspection Standards shall be maintained by the State.

"(2) The Secretary may, at the request of a State, inventory bridges on and off the Federal-aid systems, for historic significance.

"(c) Whenever a State makes an application to the Secretary for assistance in replacing or rehabilitating a highway bridge which the priority system under subsection (b) shows to be eligible and which is on the Federal-aid primary system (other than Interstate System) the Secretary may approve Federal participation in replacing the bridge with a comparable facility or in rehabilitating the bridge. The Secretary shall determine the eligibility of highway bridges for replacement or rehabilitation for each State based upon the unsafe highway bridges in the State. In approving projects under this section, the Secretary shall give consideration to those projects which will remove from service highway bridges most in danger of failure.

"(d) Notwithstanding any other provision of law, the General Bridge Act of 1946 (33 U.S.C. 525-533) shall apply to bridges authorized to be replaced, in whole or in part, by this section, except that subsection (b) of section 502 of the Act of 1946 and section 9 of the Act of March 3, 1899 (30 Stat. 1151) shall not apply to any bridge constructed, reconstructed, rehabilitated, or replaced with assistance under this title, if the bridge is over waters which are not used and are not susceptible to use in their natural condition or by reasonable improvements as a means to transport interstate or foreign commerce and which are not used by recreational boats, fishing vessels and other small craft twenty-six feet or greater in length.

"(e) As used in this section the term "rehabilitate" in any of its forms means major work necessary to restore the structural integrity of a bridge as well as work necessary to correct a major safety defect.".

FEDERAL-AID INTERSTATE-PRIMARY PROGRAM

SEC. 123. Section 146 of title 23, United States Code, is amended to read as follows:

"§ 146. Federal-aid Interstate-primary program

"(a) It is the national policy to bring all elements of the primary system up to standards established pursuant to section 109. To accomplish this policy the Federal-aid Interstate-primary program shall consist of projects for the construction, reconstruction, rehabilitation, restoration, and resurfacing or improvement of the primary system as designated in section 103(a) and the Interstate System as designated in sections 103(b)(1) and 139.

"(b) In approving projects under this section, the Secretary shall give priority consideration to projects to complete essential gaps in the Interstate System and for the reconstruction, rehabilitation, restoration and resurfacing of existing Interstate highway facilities. Reconstruction may include, but is not limited to, the addition of travel lanes and the construction and reconstruction of interchanges and overcrossings along existing completed Interstate routes, including the acquisition of right-of-way where necessary.".

FEDERAL LANDS HIGHWAYS PROGRAMS

SEC. 124. (a) Section 202(a) of title 23, United States Code, is amended to read as follows:

"(a) On October 1 of each fiscal year, or as soon thereafter as is practicable, the Secretary shall allocate the sums authorized to be appropriated for such fiscal year for forest highways within the Forest Service regions and States according to the relative needs of the various elements of the National Forest System taking into consideration the need for access as identified through renewable resource and land use planning and the impacts of such planning on existing transportation facilities. Relative need is expressed in terms of the following formula: one-half attributed to resource production consisting of the sum of timber volume planned to be sold and planned recreation use for each Forest Service Region expressed as a percent of the total for the National Forest System with equal weight being given to these two values; and one-half attributed to the forest traffic related construction cost for each Forest Service region expressed as a percent of the total for all forest highways. Forest traffic shall be expressed as the amount of vehicle traffic and miles of travel on forest highways to accomplish the management and use of the national forest system. The Secretary and the Secretary of Agriculture shall periodically and jointly determine the values used in the formula.".

(b) The third sentence of section 203 of such title is amended to read as follows:

"The Secretary of the Department charged with administration of such funds has authority to approve a project which is part of a program of projects, and approval shall be deemed a contractual obligation of the United States for payment of the cost of the project.".

(c) Section 204(a) of such title is amended by inserting "(including policies concerning planning, research, design, construction, and maintenance)" after "Federal-aid systems,".

(d) The first and second sentences of section 204(b) of such title are amended to read as follows: "Funds available for forest highways shall be used by the Secretary and funds available for park roads and parkways, and Indian reservation roads shall be used by the Secretary and the Secretary of the Interior to pay for transportation planning, research and development, engineering, force account construction and competitive bid construction. Funds available for public lands highways shall be used by the Secretary to pay for construction.".

TERRITORIAL HIGHWAY PROGRAM

SEC. 125. Section 215(f) of title 23, United States Code, is amended to read as follows:

"(f) The provisions of chapter 1 that are applicable to Federal-Aid Interstate-Primary Program funds and to projects on the Federal-aid primary system other than the Interstate System shall apply to funds authorized, to funds obligated and to projects carried out under this section except as determined by the Secretary. A territorial Federal-aid highway system shall be designated in each territory which will include all highways eligible for funding under this section. The system shall be designated by the highway department of the territory subject to the approval of the Secretary. Funding provided under this section shall be available for highway construction projects on the territorial Federal-aid system.".

RESEARCH AND PLANNING

SEC. 126. (a) Section 307(c) of title 23, United States Code, is amended to read as follows:

"(c)(1) Not less than 1½ per centum of the sums apportioned each fiscal year to any State under section 104(d)(1) (A) and (B) shall be available for expenditure by the State highway department with the approval of the Secretary for the following purposes:

"(A) Engineering and economic surveys and investigations:

"(B) Planning of future highway programs and local public transportation systems, and their financing;

"(C) Studies of the economy, safety, operational efficiency and convenience of highway usage and their desirable regulation and equitable taxation;

"(D) Research and development necessary in connection with the planning, design, construction, traffic operations and maintenance of highways and highway systems, and the regulation and taxation of their use;

"(E) Study research and training on engineering standards and construction materials, including the evaluation and accreditation of inspection and testing; and

"(F) Technology transfer activities.

"(2) Sums made available under paragraph (1) shall be matched by the State under section 120 unless the Secretary determines that the interests of the Federal-aid highway program would be best served without such matching.

"(3) The sums provided under paragraph (1) of this subsection shall be combined and administered by the Secretary as a single fund which shall be available for obligation for the same period as funds apportioned for the Federal-aid Interstate-primary program.".

(b) Section 307(e) of such title is amended to read as follows:

"(e) The Secretary shall report to the Congress, in January of each year ending in an odd number, estimates of the future highway needs of the Nation, bridge projects approved under this title, current bridge inspections under this title, and recommendations for improvement of the bridge replacement and rehabilitation program.".

NATIONAL HIGHWAY INSTITUTE

SEC. 127. Section 321 (b) and (c) of title 23, United States Code, are amended to read as follows:

"(b) Not to exceed one-quarter per centum of all Federal-aid Interstate-primary program funds, apportioned to a State under section 104, shall be available for expenditure by the State highway department, subject to approval by the Secretary, for payment of not to exceed 75 per centum of the cost of tuition and direct educational expenses (but not travel, subsistence, or salaries) in connection with the education and training of State and local highway department employees as provided in this section.

"(c) Education and training of Federal, State, and local highway employees authorized by this section shall be provided by the Secretary at no cost to the States and local governments for those activities which result from Federal requirements, or, in the case where such education and training is to be paid for under subsection (b), by the State, subject to the approval of the Secretary, through grants and contracts with public and private agencies, institutions, individuals and the Institute.".

DONATIONS

SEC. 128. Section 323 of title 23, United States Code, is amended by inserting "(a)" immediately before the first sentence and by adding the following:

"(b)(1) A gift or donation under this section may be made at any time during the development of a project. A donation made prior to the approval of an environmental document prepared pursuant to the National Environmental Policy Act shall be made conditioned that—

"(A) all alternatives to a proposed alignment will be studied and considered pursuant to the National Environmental Policy Act;

"(B) donation of property will not influence the environmental processing of a project, the decision relative to the need to construct the project or the selection of a specific location; and

"(C) any property acquired by donation will be revested in its grantor or his successors in interest if the property is not required for the alignment chosen after completion of the environmental document.".

REGULATION OF TOLLS

SEC. 129. (a) Section 4 of the Bridge Act of 1906 (34 Stat. 85; 33 U.S.C. 494), as amended, is further amended by deleting the last sentence thereof.

(b) Section 17 of the Act of June 10, 1930 (46 Stat. 552; 33 U.S.C. 498a), as amended, is repealed.

(c) Section 1 of the Act of June 27, 1930 (46 Stat. 821; 33 U.S.C. 498b), as amended, is repealed.

(d) Sections 1-5 of the Act of August 21, 1935 (49 Stat. 670; 33 U.S.C. 503-507), as amended, are repealed.

(e) Sections 503 and 506 of the General Bridge Act of 1946 (60 Stat. 847, 848, 33 U.S.C. 526, 529), as amended, are repealed.

(f) Section 133 of Public Law 93-87 (87 Stat. 267; 33 U.S.C. 526a) is repealed.

(g) Section 6 of the International Bridge Act of 1972 (86 Stat. 732, 33 U.S.C. 535d) is repealed.

(h) Section 6(g)(4) of the Department of Transportation Act (80 Stat. 937, 49 U.S.C. 1655(g)(4)) is repealed.

INTERSTATE SYSTEM WITHDRAWALS

SEC. 130. Section 107(e) of the Federal-Aid Highway Act of 1978 is repealed.

BRIDGE CONSTRUCTION

SEC. 131. Section 530 of title 33, United States Code (chapter 753, title V, section 507 of the General Bridge Act of 1946, 60 Stat. 849), is amended to read as follows: "§ 530. Bridges included.

"The provisions of section 525 of this title shall apply to bridges over the navigable waters of the United States constructed under the authority of said section and to all bridges heretofore constructed under authority granted by Congress, notwithstanding any conflicting toll provisions or other provisions in any Act authorizing the construction of such a bridge.".

INTERIM AMENDMENTS

SEC. 132. (a) Unobligated balances of Interstate construction funds available to a State on October 1, 1986, shall be available for obligation for Interstate construction projects or to convert Advance Construction Interstate projects until October 1, 1989. Whenever amounts available exceed the estimated cost of completing that State's portion of the Interstate System, the excess amount shall be eligible for expenditure for the Federal-aid Interstate-primary program. Unallocated Interstate discretionary funds shall be available for allocation until October 1, 1989.

(b) Unobligated balances apportioned to a State under section 104(b)(1) and (b)(5)(B) of title 23, United States Code, shall be available for obligation for projects under section 146 of such title.

(c) Unobligated balances apportioned to States for the Federal-aid secondary and urban systems may be obligated for highway construction projects on any main public road. Projects constructed with funds under this subsection shall be subject to the provisions of this title applicable to Federal-aid primary system projects provided that highway block grant procedures may be used at the discretion of the Secretary.

(d) Unobligated balances apportioned to a State for bridge replacement and rehabilitation shall be available for obligation under section 144 of title 23, United States Code.

(e) Notwithstanding sections 144 and 104(d)(2)(A) of title 23, United States Code, bridges that have been partially funded under discretionary bridge replacement and rehabilitation provisions of such title are eligible for funding from the discretionary bridge fund.

(f) Unobligated balances apportioned to the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands under the provisions of section 108 of the Highway Improvement Act of 1982 shall be considered to have been authorized to carry out the provisions of section 215 of title 23, United States Code.

(g) Unobligated balances apportioned to a State under section 203 of the Highway Safety Act of 1973 shall be available for projects under section 130 of title 23, United States Code.

TECHNICAL AND CONFORMING AMENDMENTS

SEC. 133. (a) Title 23, United States Code, is amended as follows:

(1) The tables of sections for chapters 1, 2, 3, and 4 are amended by (A) striking out "102. Authorizations." "118. Availability of sums apportioned." "119. Interstate resurfacing." "126. Diversion." "133. Repealed." "135. Traffic operations." "137. Fringe and corridor parking facilities." "143. Economic growth center development highways." "146. Repealed." "147. Priority primary routes." "148. Development of a national scenic and recreational highway." "150. Allocation of urban system funds." "151. Pavement marking demonstration program." "155. Access highways to public recreation areas on certain lakes." "156. Highways crossing other Federal projects." "157. Minimum allocation." "201. Authorizations." "211. Timber access road hearings." "213. Rama Road." "219. Safer of-system roads." and "322. Demonstration project-rail crossings.", and by (B) inserting in lieu thereof, respectively, "102. Income from rights-of-way." "118. Availability." "119. Repealed." "126. Repealed." "133. Strategic highway research program." "135. Repealed." "137. Repealed." "143. Repealed." "146. Federal-aid Interstate-primary program." "147. Repealed." "148. Repealed." "150. Repealed." "151. Repealed." "155. Repealed." "156. Repealed." "157. Repealed." "201. Repealed." "211. Repealed." "213. Repealed." "219. Repealed.", and "322. Repealed.".

Section 101 (a) is amended by (A) striking out "The term 'apportionment' in accordance with section 104 of this title includes unexpended apportionments made under prior acts.", by (B) striking out "subsection (b) of section 103" and inserting in lieu thereof "section 103(a)", by (C) striking out "The term 'Federal-aid secondary system' means the Federal-aid highway system described in subsection (c) of section 103 of this title.", by (D) striking out "The term 'Federal-aid urban system' means the Federal-aid highway system described in subsection (d) of section 103 of this title.", by (E) striking out "subsection (e) of section 103" and inserting in lieu thereof "section 103(b)", by (F) amending the definition of the term "park road" to read "The term 'park road' means a public road that is located within, or provides access to, an area in the national park system, with title and maintenance responsibilities vested in the United States." and by (G) amending the definition of the term "public lands highways" by striking "main highways" and inserting in lieu thereof "main public roads and roads on a Federal-aid system" and by striking ", which are on the Federal-aid systems".

(3) Section 105 is amended as follows:

(A) By striking out subsection (a) and inserting the following:

"(a) As soon as practicable in each fiscal year, the State highway department of any State desiring to avail itself of the benefits of this chapter shall submit to the Secretary for approval a program or programs of proposed projects for the utilization of the funds apportioned to the State under this chapter. The Secretary shall act upon programs submitted as soon as practicable and may approve a program in whole or in part.".

(B) By striking out subsection (b).

(C) By striking out subsection (c).

(D) By striking out subsection (d).

(E) By inserting a new subsection (b) as follows:

"(b) In approving programs for projects in urbanized areas the Secretary shall require that the projects be selected under section 134.".

(F) By relettering subsections (e), (f), (g), and (h) as subsections (c), (d), (e), and (f).

(4)(A) Subsection (b) of section 106 is repealed and subsections (c) and (d) are relettered as subsections (b) and (c).

(B) Relettered subsection (b) of section 106 is amended by striking out "10" and inserting in lieu thereof "15", and by striking out "estimate" and inserting in lieu thereof "estimated", and by striking the second sentence.

(5) Section 107(a)(2) is amended by striking out "10 per centum of the costs incurred by the Secretary, in acquiring such lands or interests in lands, or such lesser percentage which represents" and by striking out "as determined in accordance with subsection (c) of section 120 of this title".

(6)(A) Sections 109 (c) and (m) are repealed.

(B) Sections 109 (d), (e), (f), (g), (h), (i), (j), (k), and (l) are relettered as (c), (d), (e), (f), (g), (h), (i), (j), and (k) and 109 (n) and (o) are relettered as (l) and (m).

(7) Section 112(e) is repealed.

(8) Section 113 is amended by (A) striking "the Federal-aid systems, the primary and secondary, as well as their extensions in urban areas, and the Interstate System," and inserting in lieu thereof "on the Federal-aid primary and Interstate systems," and by (B) striking "267a" and inserting in lieu thereof "276a".

(9)(A) Section 115(a)(1) is amended by striking "funds apportioned or allocated to it under section 103(e)(4), 104 or 144 of this title, other than Interstate funds," and inserting in lieu thereof "Interstate substitute, Federal-aid Interstate-primary or bridge replacement and rehabilitation program funds apportioned or allocated to it under section 104"; by striking "funded under section 104(b)(5) of this title"; and by striking "103(e)(4), 104, or 144, respectively" and inserting in lieu thereof "104".

(B) Section 115(a)(2) is amended by striking "for section 103(e)(4), 104, or 144 of this title, as the case may be."

(C) Section 115(c) is amended by striking "103(e)(4), 104, or 144" and inserting in lieu thereof "104".

(10) Section 116 is amended by striking "on the Federal-aid secondary system, or within municipality," and inserting in lieu thereof "within a municipality".

(11) Section 119 is repealed.

(12) Section 121(d) is amended by striking "10" and inserting in lieu thereof "15", and by striking the third sentence.

(13) The first sentence of section 122 is amended to read as follows: "Any State that shall use the proceeds of bonds issued by the State, county, city, or other political subdivision of the State for the construction of one or more projects on the Federal-aid primary or Interstate System or for substitute projects may claim payment of any portion of the sums apportioned to it for expenditure on such system or on substitute projects to aid in the retirement of the principal of such bonds the proceeds of which were used for projects on the Federal-aid primary system or for substitute projects and the retirement of the principal and interest of such bonds the proceeds of which were used for projects on the Interstate System at their maturities, to the extent that the proceeds of such bonds have been actually expended in the construction of one or more of such projects.".

(14) Section 124(b) is amended by striking the last sentence.

(15) Section 126 is repealed.

(16) Section 128(b) is amended by inserting "or other record as prescribed by the Secretary" after "transcript".

(17) Section 135 is repealed.

(18) Section 137 is repealed.

(19)(A) Section 139(a) is amended by striking "103(e)" and inserting in lieu thereof "(103(b)(1)" and by striking the last sentence.

(B) Section 139(b) is amended by striking "paragraph 1 of subsection (e) of section 103" and inserting in lieu thereof "section 103(b)(1)", by striking "103(e)" and inserting in lieu thereof "103(b)(1)" and by striking the fourth sentence.

(C) Section 139(c) is amended by striking "103(e)(1)" and inserting in lieu thereof "103(b)(1)" and by striking the last sentence.

(20)(A) Section 141(b) is amended by striking "the Federal-aid urban system, and the Federal-aid secondary system,".

(B) Section 141(d) is amended by striking "104(b)(5)" and inserting in lieu thereof "104(d)(1)(A)" the two places "104(b)(5)" appears and by striking the word "Interstate".

(21)(A) Section 142(a) is amended by (i) striking "(a)(1)" and inserting in lieu thereof "(a)", (ii) inserting "or allocated" after "apportioned", (iii) striking "104(b)" and inserting in lieu thereof "104", and (iv) striking paragraph (a)(2).

(B) Section 142(b) is amended by (i) inserting "or allocated" after "apportioned" and (ii) striking "paragraph (5) of subsection (b) of".

(C) Section 142 is amended by (i) striking subsections (c), (d), (h), (i), (j), and (k) and by (ii) relettering subsections (f) and (g) as (d) and (e).

(D) Section 142(e) is amended by (i) relettering it as 142(c), (ii) by striking "(a)(1)" in paragraph (1) and inserting in lieu thereof "(a)", (iii) by striking paragraph (2), and (iv) by relettering paragraph (3) as paragraph (2).

(22) Section 143 is repealed. Unobligated balances of any funds authorized for this section are rescinded.

(23) Section 147 is repealed. Unobligated balances of any funds authorized for this section are rescinded effective October 1, 1987.

(24) Section 148 is repealed. Unobligated balances of any funds authorized for this section are rescinded effective October 1, 1987.

(25) Section 150 is repealed.

(26) Section 151 is repealed. Unobligated balances of any funds authorized for this section are rescinded effective October 1, 1987.

(27) Section 152 is amended by (A) striking the period at the end of subsection (c) and inserting in lieu thereof "and shall be available for obligation in the same manner and to the same extent as if the funds were Federal-Aid Interstate-primary program funds apportioned under section 104, except that the Secretary is authorized to waive provisions that are inconsistent with the purposes of this section." by, (B) striking subsections (d) and (e) and by, (C) relettering subsections (f), (g) and (h) as subsections (d), (e), and (f).

(28)(A) Section 154(f) is amended by striking "each of sections 104(b)(1), 104(b)(2), and 104(b)(6) of this title in an aggregate amount of up to 5 percent of the amount to be apportioned for the following fiscal years, in the case of fiscal years 1982 and 1983, and up to 10 percent, in the case of subsequent fiscal years." and inserting in lieu thereof "section 104(d)(1)(A) in an amount of up to 10 percent of the amount to be apportioned for any fiscal year.".

(29) Section 155 is repealed. Unobligated balances of any funds authorized for this section are rescinded effective October 1, 1987.

(30) Section 156 is repealed. Unobligated balances of any funds authorized for this section are rescinded effective October 1, 1987.

(31) Section 157 is repealed.

(32)(A) Section 158(a)(1) is amended by striking "each of the sections 104(b)(1), 104(b)(2), 104(b)(5) and 104(b)(6) of this title on the first day of the fiscal year succeeding the fiscal year beginning after September 30, 1985" and inserting in lieu thereof "section 104(d)(1)(A) on October 1, 1986".

(B) Section 158(a)(2) is amended by striking "each of sections 104(b)(1), 104(b)(2), 104(b)(5) and 104(b)(6) of this title on the first day of the fiscal year succeeding the second fiscal year beginning after September 30, 1985" and inserting in lieu thereof "section 104(d)(1)(A) on October 1, 1987".

(33) Section 301 is repealed.

(34) Section 204(e) is amended by striking "88 Stat. 2205" and inserting in lieu thereof "88 Stat. 2203".

(35) Section 210(g) is amended by striking "Commerce" and inserting in lieu thereof "Transportation".

(36) Section 211 is repealed.

(37) Section 213 is repealed. unobligated balances of any funds authorized for this section are rescinded effective October 1, 1987.

(38) Section 215(a) of title 23, United States Code, is amended by striking from the first sentence the words "and American Samoa" and inserting in lieu thereof "American Samoa, and the Commonwealth of the Northern Mariana Islands".

(39) Section 217 is amended by (A) striking "paragraphs (1), (2), and (6) of section 104(b)" the two places it appears and inserting in lieu thereof "section 104(d) (1) (A)" and by (B) striking "100 per centum" the two places it appears and inserting in lieu thereof "as provided in section 120".

(40) Section 219 is repealed. Unobligated balances of any funds authorized for this section are rescinded effective October 1, 1987.

(41) Section 302 is amended by, (A) striking "(a)", (B), striking "among other things, the organization shall include a secondary road unit." and (C), striking subsection (b).

(42) Section 311 is amended by striking "(b)" and inserting in lieu thereof "(d)(1)(A)".

(43) Section 315 is amended by striking "204(d), 205(a), 207(b) and 208(c)" and inserting in lieu thereof "204(f) and 205(a)".

(44) Section 322 is repealed. Unobligated balances of any funds authorized for this section are rescinded effective October 1, 1987.

(45) Section 401 is amended by striking "and American Samoa." and inserting in lieu thereof "American Samoa and the Commonwealth of the Northern Mariana Islands.".

(46) Section 402(c) is amended by, (A) striking "For the fiscal years ending June 30, 1967, June 30, 1968, and June 30, 1969, such funds shall be apportioned 75 per centum on the basis of population and 25 per centum as the Secretary in his administrative discretion may deem appropriate and thereafter such" and inserting in lieu thereof "the" and by (B), striking "After December 31, 1969, the" and inserting in lieu thereof "The".

(47) Section 406(c) is amended by striking out the first two sentences.

(b)(1) Section 108(b) of the Federal-Aid Highway Act of 1956 is amended by (A) inserting "and" before "for the fiscal year ending September 30, 1987", by (B) inserting a period after "1987", and by (C) striking ", and the additional sum of $4,000,000,000 for the fiscal year ending September 20, 1988, the additional sum of $4,000,000,000 for the fiscal year ending September 23, 1989, and the additional sum of $4,000,000,000 for the fiscal year ending September 23, 1990.".

(2) Section 163 of the Federal-Aid Highway Act of 1973 is repealed. Unobligated balances of funds appropriated for this section shall remain available until expended.

(3) Section 203 of the Highway Safety Act of 1973 is repealed.

(4) Sections 118 and 119 of the Federal-Aid Highway Amendments of 1974 are repealed. Unobligated balances of funds authorized or appropriated for these sections are rescinded effective October 1, 1987.

(5) Section 146(c) of the Federal-Aid Highway Act of 1975 is repealed.

(6) Sections 105 and 141 of the Federal-Aid Highway Act of 1978 are repealed. Unobligated balances of funds authorized or appropriated to carry out section 141 are rescinded effective October 1, 1987.

(7) Section 215 of the Highway Safety Act of 1978 is repealed.

(8) Sections 105(d), 121(b), and 146 of the Highway Improvement Act of 1982 are repealed.

TITLE II

SHORT TITLE

SEC. 201. This title may be cited as the "Highway Block Grant Act of 1987".

HIGHWAY BLOCK GRANT

SEC. 202. Title 23, United States Code, is amended by adding at the end thereof a new chapter.

"CHAPTER 5—HIGHWAY BLOCK GRANT

"§ 501. Apportionment

"(a)(1) On October 1 of each fiscal year, or as soon thereafter as is practicable, the Secretary shall deduct not to exceed 3¾ per centum of the amounts authorized to carry out this chapter for that fiscal year for the purpose of administering the provisions of law to be financed with authorizations for this chapter. In making a determination, the Secretary shall take into account the unexpended balance of any sums deducted in prior years.

"(2) On October 1 of each of the fiscal years ending September 30, 1987, September 30, 1988, September 30, 1989, September 30, 1990, and September 30, 1991, or as soon as is practicable, the Secretary shall, after making the deductions authorized by paragraph (a)(1), deduct one-quarter per centum of the remaining amounts authorized to carry out this chapter for that fiscal year for the purpose of carrying out the objectives of the Strategic Highway Research Program under section 133.

"(b) The Secretary, after making the deductions authorized by subsection (a) of this section, shall on the first day of each fiscal year, or as soon as is practicable, apportion 25 per centum and shall on January 1 of each fiscal year, or as soon thereafter as is practicable, apportion 75 per centum of the remaining amounts authorized to carry out this chapter for that fiscal year among the several States in the following manner:

"(1) 35 per centum in the ratio which the population in urban areas, or parts thereof, in each State bears to the total population in urban areas, or parts thereof, in all States as shown by the latest available Federal census. No State shall receive less than one-half per centum of the apportionment under this paragraph.

"(2) 30 per centum as follows: One-third in the ratio in which the area of each State bears to the total area of all States; one-third in the ratio which the population of rural areas of each State bears to the total population of rural areas of all the States as shown by the latest available Federal census; and one-third in the ratio which the mileage of rural delivery and intercity mail routes where service is performed by motor vehicle, as shown by a certificate of the Postmaster General, which shall be made and furnished annually to the Secretary, in each State bears to the total mileage of rural delivery and intercity mail routes where service is performed by motor vehicles in all the States. No State (other than the District of Columbia) shall receive less than one-half per centum of the apportionment under this paragraph.

"(3) 35 per centum based upon the needs of bridges not eligible for assistance under chapter 1 but maintained in the inventory required by section 144. The bridges shall be placed in category (A), bridges eligible for replacement or (B) bridges eligible for rehabilitation. The square footage of bridges in each category shall be multiplied by the respective unit price on a State-by-State basis as determined by the Secretary; and the total cost in each State divided by the total costs in all the States shall determine the apportionment factors. No State shall receive more than 10 per centum or less than 0.25 per centum of the apportionment under this paragraph. The Secretary shall make needed determinations based upon the latest available data, which shall be updated annually.

"(c) The apportionment of funds under this section shall be deemed a contractual obligation of the Federal Government for the payments required in section 502.

"§ 502. Payments

The Secretary shall make progress payments to a State in a manner that provides to the State funds as they are needed to pay for costs incurred under the block grant program. Such payments shall be made to such official or officials or depository as may be designated by the State highway department and authorized under the laws of the State to receive public funds of the State.

"§ 503. Allocation to urbanized areas

"The funds apportioned to any State under section 501(b)(1) of this chapter that are attributable to population in urbanized areas of two hundred thousand population or more shall be made available for expenditure in the urbanized areas for projects selected by the appropriate local officials under the planning process of section 134 and with a fair and equitable formula developed by the State which formula has been approved by the Secretary. The formula shall provide for fair and equitable treatment of incorporated municipalities of two hundred thousand or more population. Whenever a formula has not been developed and approved for a State, the funds which are attributable to urbanized areas having a population of two hundred thousand or more shall be allocated among urbanized areas within the State in the ratio that the population within each urbanized area bears to the population of all urbanized areas, or parts thereof, within the State. In the expenditure of funds allocated under the preceding sentence, fair and equitable treatment shall be accorded incorporated municipalities of two hundred thousand or more population. Funds allocated to an urbanized area under the provisions of this section may, at the request of the Governor and upon approval of the appropriate local officials of the area, be transferred to the allocation of another such area in the State or to the State for use in any urban area.

"§ 504. Eligible projects

"Funds apportioned under section 501(b) may be expended for highway construction projects on any main public road, for bridge replacement or rehabilitation projects on a bridge maintained in the inventory under section 144, other than a bridge on the Interstate or primary systems, or for activities as provided in sections 134 and 307(c). Apportionments may not be expended as State matching funds for Federal assistance or for costs incurred prior to the effective date of the Highway Block Grant Act of 1987. Funds allocated under section 503 may be expended for Federal-aid urban system projects which were eligible for funds under section 142 before the enactment of this section.

"§ 505. Federal share payable

"Payments under this chapter shall not exceed 75 per centum of the cost of eligible projects. The State match may include cash, real estate, or in kind services.

"§ 506. Assurances

"Each State shall provide annual written assurance that the State government—

"(a) will make funds available to urbanized areas for expenditure on eligible projects under section 503;

"(b) will expend payments made available under this chapter in accordance with the requirements of this chapter;

"(c) will appropriate and expend the payments received in accordance with the laws and procedures applicable to the expenditure of its own revenues;

"(d) will provide an opportunity for the public to comment on the proposed expenditure of these funds;

"(e) will comply with the requirements of section 507;

"(f) will provide to the Secretary and the Comptroller General, upon reasonable notice, access to and the right to inspect such books, documents, papers, records and construction sites as the Secretary or the Comptroller General reasonably require to review compliance and operations under this chapter;

"(g) will consult with local governments on major policy decisions and program choices involving the use of Highway Block Grant funds;

"(h) will comply with the requirements of "The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970" and the "Single Audit Act of 1984";

"(i) will insure that all laborers and mechanics employed by contractors or subcontractors on construction work performed under this chapter shall be paid wages at rates not less than those prevailing on the

same type of work in the immediate locality as determined by the Secretary of Labor in accordance with the Act of August 30, 1935, known as the Davis-Bacon Act (40 U.S.C. 276a); and

"(j)(1) will comply with the policies of the National Environmental Policy Act of 1969 (42 U.S.C.A. § 4321 et seq.) and other Federal environmental laws and Executive Orders (as specified in regulations issued by the Secretary). The Secretary, in lieu of the environmental protection procedures otherwise applicable, may under regulations provide for the approval of projects by recipients of assistance under this chapter who assume all of the responsibilities for environmental review, decisionmaking, and action pursuant to such Act, and such other provisions of law as the regulations of the Secretary specify, that would apply to the Secretary if such projects were undertaken as Federal projects. The Secretary shall issue regulations to carry out this subsection only after consultation with the Council on Environmental Quality.

"(2) will submit an annual certification under the procedures authorized by this paragraph (j). Such certification shall—

"(A) be in a form acceptable to the Secretary,

"(B) be executed by the chief executive officer or other officer of the recipient of assistance under this chapter qualified under regulations of the Secretary,

"(C) specify that the recipient of assistance under this chapter will fully carry out its responsibilities as described in paragraph (1), and

"(D) specify that the certifying officer (i) consents to assume the status of a responsible federal official under the National Environmental Policy Act of 1969 (42 U.S.C.A. § 4321 et seq.) and each provision of law specified in regulations issued by the Secretary insofar as the provisions of the Act or other such provision of law apply pursuant to paragraphs (1) and (ii) is authorized and consents on behalf of the recipient of assistance under this chapter and the certifying officer to accept the jurisdiction of the Federal courts for the purpose of enforcement of the certifying officer's responsibilities of such an official.

"(3) agrees that the Secretary's approval of any certification shall satisfy the Secretary's responsibilities under the National Environmental Policy Act of 1969 (42 U.S.C.A. § 4321 et seq.) and other provisions of law as the regulations of the Secretary specify insofar as those responsibilities relate to the approval of projects by recipients under this chapter.

"§ 507. Nondiscrimination

"(a) For the purpose of applying the prohibitions against discrimination on the basis of age under the Age Discrimination Act of 1975, on the basis of handicap under section 504 of the Rehabilitation Act of 1973, on the basis of sex under title IX of the Education Amendments of 1972, or on the basis of race, color, or national origin under title VI of the Civil Rights Act of 1964, programs and activities that receive Federal financial assistance under this chapter are deemed to be programs and activities receiving Federal financial assistance.

"(b) No person shall on the ground of sex be excluded from participation in, be denied the benefits of, or be subject to discrimination under, any program or activity that receives Federal financial assistance under this chapter: *Provided, however,* That this chapter shall not be read as prohibiting any conduct or activities permitted under title IX of the Education Amendments Act of 1972.

"§ 508. Compliance

"If the Secretary determines that a State or local government has failed to comply substantially with any provision of this chapter, the Secretary shall notify the State that, if it fails to take corrective action within sixty days from the receipt of the notification, the Secretary will withhold future payments under this chapter until the Secretary is satisfied that appropriate corrective action has been taken.

"§ 509. Applicability of other law

"Except as provided in section 504, payments expended under this chapter are not Federal funds for the purpose of determining the applicability of any Federal statute not specified in section 506 or 507. The definitions in section 101(a) of this title apply to this chapter. Chapters 1 through 4 of this title do not apply to this chapter except as specifically provided in this chapter.".

TECHNICAL AMENDMENT

SEC. 203. The table of chapters at the beginning of title 23, United States Code, is amended by adding:

"5. Highway block grant..... 501.".

AUTHORIZATION

SEC. 204. There is authorized out of the Highway Account of the Highway Trust Fund to carry out chapter 5 of title 23, United States Code, $2,200,000,000 per fiscal year for each of the fiscal years ending September 30, 1987, September 30, 1988, September 30, 1989, and September 30, 1990.

SECTION-BY-SECTION ANALYSIS—ESSENTIAL HIGHWAY REAUTHORIZATION AMENDMENTS OF 1987

TITLE I—FEDERAL-AID HIGHWAY ACT OF 1987

SECTION 101—SHORT TITLE

This section provides that Title I may be cited as the "Federal-Aid Highway Act of 1987."

SECTION 102—AUTHORIZATIONS

This section authorizes the appropriation of sums from the Highway Account of the Highway Trust Fund for various Federal-aid programs.

Paragraph (a)(1) provides authorizations for the Interstate-primary program of $8.16 billion for each fiscal year 1987 through 1990 and of such sums as may be necessary for the primary minimum part of the apportionment formula.

Paragraph (a)(2) provides authorizations for the Interstate substitution program, both highway and transit, of $500 million for each fiscal year 1987 through 1990.

Paragraph (a)(3) provides annual authorizations for the bridge replacement and rehabilitation program of $1.25 billion for each fiscal year 1987 through 1990.

Paragraph (a)(4) provides each of the territories (the Virgin Islands, Guam, American Samoa, and the Northern Marianas) with an annual authorization under the Territorial Highway Program for fiscal years 1987 through 1990 of $5 million, $5 million, $1 million and $1 million, respectively.

Paragraph (a)(5) provides annual authorizations for each of the components of the Federal lands highways program for fiscal years 1987 through 1990 as follows: forest highways $75 million, public lands highways $25 million, Indian Reservation roads $75 million, and park roads and parkways $75 million.

Paragraph (a)(6) provides annual authorizations for highway related safety grants by FHWA for the fiscal years 1987 through 1990 of $10 million.

Paragraph (a)(7) provides annual authorizations for rail-highway crossings for fiscal year 1987 through 1990 of $190 million.

Paragraph (a)(8) provides annual authorizations for hazard elimination for fiscal years 1987 through 1990 of $175 million.

Paragraph (a)(9) provides authorizations for fiscal years 1987 through 1990 for the minimum apportionment of such sums as may be necessary.

Paragraph (a)(10) provides annual authorizations for fiscal years 1988 through 1990 for highway emergency relief of of $100 million. $100 million is already available for fiscal year 1987.

Subsection (b) provides authorizations out of the Highway Account of the Highway Trust Fund to administer Motor Carrier Safety.

Subsection (c) provides for an annual adjustment in the authorizations if the Treasury Department's mid-year review of Highway Trust Fund receipts immediately preceding the year of authorization indicates that the receipts to the Highway Account of the Highway Trust Fund for that fiscal year will be different than was estimated by the Department of Treasury in January 1987 for the President's Fiscal Year 1988 Budget. If the mid-year review estimate of receipts for that fiscal year is higher, the Interstate-primary authorization for that fiscal year will be increased by the amount of the difference. If the estimated receipts are lower, the authorizations for the Highway Block Grant, the Interstate-primary and the bridge replacement and rehabilitation programs will be reduced with the reduction for each program being in proportion to the authorizations for these programs.

SECTION 103—MAIN PUBLIC ROADS

This section defines "main public roads" to include roads not on a Federal-aid system that are either rural major collector routes or high traffic volume arterial and collector routes in an urban area including routes which provide access to an airport or other transportation terminal. Highway construction projects on a main public road are made eligible for funding from the minimum apportionment, Interstate substitution and Highway Block Grant programs by other sections of this Act. Unobligated urban and secondary system funds may also be used for highway construction projects on main public roads. The definition includes the type of routes formerly eligible for inclusion on the Federal-aid secondary and urban systems.

SECTION 104—INCOME FROM RIGHTS-OF-WAY

This section requires that the States obtain at least the fair market value for permitted non-highway uses of highway right-of-way airspace. This section also requires that any net revenues, after deducting the cost of sale or cost of issuing and maintaining the joint use agreements, obtained by a State or political subdivision for the use of the airspace of right-of-way of a Federal-aid project by non-highway facilities shall be applied to highway projects eligible under the provisions of chapters one and five of Title 23. The term right-of-way airspace would include space, both above and below ground. The charges and disposition of fees for utility use and occupancy of right-of-way will continue to be governed by 23 C.F.R. 645. The term utility includes public-

ly, privately, and cooperatively owned utilities.

SECTION 105—FEDERAL-AID SYSTEMS

This section amends section 103 of title 23 to establish the primary system, consisting of rural arterial routes and their extensions, and the 43,000 mile Interstate System as the systems of national significance. The prohibition of designation of additions to the Interstate System, except under 23 U.S.C. 139, is continued.

The Federal-aid secondary and urban systems are not part of this system of national significance and financing for projects which were previously on these systems will come from the highway block grant established as Chapter 5, title 23 by this Act.

Section 103(b)(1) establishes the Interstate system mileage as a combination of the system mileage authorized by current law in paragraphs (1), (2), and (3) in section 103(e) of title 23. The Interstate System mileage is also retained as part of the Federal-Aid Primary System and, as is provided in current law, the Secretary is prohibited from designating any new Interstate System mileage except under section 139 of title 23.

Section 103(b)(2) replaces section 103(e)(4) of title 23, contains the provisions of the Interstate withdrawal-substitution program, and continues the funding of substitution projects (highway or transit) with funds made available by Interstate System withdrawals approved before October 1, 1986.

The revision continues the administration of substitute highway and substitute transit programs by FHWA and UMTA, respectively with highway and transit substitution funds authorized from the Highway Account of the Highway Trust Fund.

All current provisions concerning eligibility for withdrawal and the request and approval of withdrawals have been eliminated. The revision eliminates the September 30, 1983 deadline for approval of substitute projects and clarifies the roles of responsible local officials and the Governor in the selection and submission of substitute projects.

The requirement of a substitution cost estimate and apportionment and allocation provisions are in section 105 of this Act. The period of availability is extended for apportioned and allocated funds to 2 years in section 112 of this Act.

The types of projects eligible for funding remain the same as in current law with the added flexibility that substitute funds may be used for substitute highway construction projects on any main public road (definition in section 101 of title 23) and for transportation planning and research under 23 U.S.C. 134 and 23 U.S.C. 307. The Federal share on substitute projects is retained at 85 percent.

Current law (section 103(e) (5), (6), (7), (8), and (9) of title 23) permits the Secretary to waive the repayment of Federal funds expended on withdrawn Interstate segments under various circumstances.

Section 103(c) replaces the current law with a provision that requires, in the case of an Interstate or primary system action, the repayment of Federal funds expended on construction items, materials, and rights-of-way if such items, materials, and rights-of-way are not applied to a transportation project within 10 years.

The provision retains the rights of previous owners and provides that repaid funds shall be credited to the State's unobligated balance of federal funds for use on other projects.

The provision replacing the repayment provisions for Interstate withdrawals allows waiver of the repayment of Federal funds only in those instances where the State proposes a transportation reuse and extends the provision to similar situations where system actions are taken on the Federal-aid primary system. This provision will narrow the situations on Interstate projects where waiver is permitted and apply the same policy to system actions on the Federal-aid primary system.

The provisions would apply to actions where an entire segment of the Federal-aid system is terminated or changed. This provision is not intended to cover certain kinds of property disposition such as excess right-of-way resulting from changes to project plans, deletions of open-to-traffic segments, individual project phases which do not advance to the next phase within the time limits of the Federal-aid project agreement or items purchased but found unnecessary to completion of an individual project all of which will continue to be handled under the policy and regulations of the FHWA.

SECTION 106—APPORTIONMENT AND ALLOCATION

This section replaces the existing section 104 in title 23, consolidating provisions relating to the distribution of authority among the States and eliminates archaic references which no longer apply to the Federal-aid program. (Unless otherwise noted the references below are to 23 U.S.C. 104, as amended.)

Subsection (a) essentially incorporates the current administrative takedown.

Subsection (b) provides a process for distributing Federal planning assistance funds to States and urbanized areas. Federal assistance for planning activities in areas with a population of 200,000 or more will continue to be made available as currently provided in section 104(f) of title 23. For the urbanized areas with populations between 50,000 and 200,000, the funds will be made available to the State for use by or for the benefit of these areas. These amendments are being made in concert with those in section 120 of this bill which amend 23 U.S.C. 134.

This subsection requires designation of a metropolitan planning organization (MPO) only for those urbanized areas with population of 200,000 or more. Urbanized areas with populations between 50,000 and 200,000 would continue to be required to meet the objective of 23 U.S.C. 134, but would not be required to follow federally prescribed planning requirements contained therein.

Nothing in these amendments is intended to preclude State and local officials from continuing their planning process or an MPO, or both, in urbanized areas with populations between 50,000 and 200,000.

These amendments also retain the current apportionment formula; each State's funds are determined by the ratio its urbanized area population bears to the total urbanized area population of the Nation.

Subsection (c) provides for a deduction in fiscal years 1987 through 1991 (net of administration and metropolitan planning) from the Federal-aid Interstate-primary, bridge replacement and rehabilitation, highway Interstate substitution, the railway-highway crossings and the hazard elimination programs to carry out the purposes of the Strategic Highway Research Program created by section 119 of this bill as 23 U.S.C. 133. A deduction from the Highway Block Grant for SHRP is also provided in title II of this Act.

Paragraph (d)(1) prescribes the apportionments of Federal-aid categories.

Paragraph (A) provides a formula for the new Interstate-primary program which combines the existing Interstate-4R formula (55 percent on Interstate lane miles and 45 percent on Interstate vehicle miles traveled) with the existing dual primary formula in the 1982 STAA. Paragraph (A) also provides for the apportionment of the Interstate construction funds part of the new program. The Secretary will administratively adjust the 1987 ICE prior to making the fiscal year 1987 apportionment. The adjusted ICE will be the basis for apportioning funds for the remaining fiscal years with no further adjustment.

Paragraph (B) changes the apportionment for bridge replacement and rehabilitation by (1) increasing the set-aside for discretionary bridges from $200 million annually to $250 million annually for fiscal years 1987 through 1990, and (2) modifying the formula to apportion funds on the basis of cost estimates for only primary system bridges (excluding the Interstate). The current 10-percent maximum and one-quarter percent minimum for an individual State's share of total apportionment is maintained.

Paragraph (C) provides for the apportionment of 75 percent of the Interstate substitution authorizations based on an administratively adjusted cost estimate (ISCE).

Paragraphs (D) and (E) provide for apportionment of railway-highway crossing and hazard elimination authorizations as in current law.

Paragraph (d)(2) provides for the allocation of bridge discretionary and Interstate substitution discretionary funds. The criteria for bridge discretionary funds remains essentially unchanged from current law. Only high-cost primary system bridges are to be considered. Bridge discretionary funds will be allocated under the provisions of 23 CFR 650, Subpart D, as provided in section 161 of the Surface Transportation Assistance Act of 1982. (A conforming amendment has been incorporated to make eligible for further discretionary funding high-cost non-primary system bridges that have already received partial funding under the previous bridge replacement and rehabilitation program). Twenty-five percent of Interstate substitution program funds will be allocated at the discretion of the Secretary with the Secretary to give priority to ready-to-go substitute projects that will complete substitution programs.

Subsection (e) provides for a minimum apportionment (previously known as minimum allocation). The provision is established permanently with funds to be made available the first day of each fiscal year. The calculation is to be based on apportionments including Highway Block Grant apportionments for that fiscal year and allocations made in the previous fiscal year from the Highway Account of the Highway Trust Fund except for the minimum apportionment and apportionments or allocations for forest highways, Indian reservation roads, parkways and parkroads, highway related safety grants, nonconstruction safety grants and Motor Carrier Safety grants. For purposes of the minimum apportionment any funds withheld, reduced or reserved from apportionment as a penalty shall be treated as having been apportioned. There is a maximum cap of $500 million per fiscal year for the minimum apportionment.

Paragraph (e)(2) provides that the minimum apportionment will be eligible for highway construction on any main public road or on a Federal-aid system. Applicable program requirements and Federal share correspond to the system on which used. The provisions of Chapter 1 applicable to primary system projects apply to off-system projects except that highway block grant procedures under Chapter 5 of title 23 may be used to the extent determined appropriate by the Secretary. A minimum State match of 25 percent is required for off-system projects.

Subsection (f) provides for 90-day advance notice of apportionments, when possible, as well as certification of apportionments and deductions on October 1 of each fiscal year.

Subsection (g) retains the right to transfer funds between the bridge replacement, hazard elimination, and railroad-highway crossing apportionments.

SECTION 107—ADVANCE ACQUISITION OF RIGHTS-OF-WAY

This section provides for interest on advances made for the purchase of rights-of-way, except purchases for Interstate construction projects.

SECTION 108—AGREEMENTS RELATING TO USE OF RIGHTS-OF-WAY

This section amends 23 U.S.C. 111 to enable deliveries on Interstate right-of-way of duty free store merchandise to motor vehicle occupants at U.S. border crossings. The provision is limited to facilitating U.S. Customs Service supervision of exports and the exception to provisions prohibiting commercial establishments on Interstate right-of-way applies only when such deliveries will not impair the full use and safety of the highways.

SECTION 109—LETTING OF CONTRACTS

This section amends 23 U.S.C. 112(b) to permit the Secretary to waive competitive bidding on a construction contract where an emergency situation exits.

SECTION 110—CONSTRUCTION

This section makes conforming and technical amendments to 23 U.S.C. 114 and provides for inspections of Federal-aid projects as prescribed by the Secretary. The statute now requires a final inspection on every Federal-aid project. The section also incorporates current law with regard to convict labor.

SECTION 111—MAINTENANCE

This section combines the provisions of section 109(m) and 119(b) of title 23, United States Code, and places them in section 116 of title 23. Provisions that require a reduction of a State's Interstate apportionments by 10 percent for failure to maintain the Interstate System adequately are changed to permit a reduction of not more than 10 percent of a State's Interstate-primary apportionment at the discretion of the Secretary.

SECTION 112—CERTIFICATION ACCEPTANCE

This section modifies 23 U.S.C. 117 to permit certification acceptance for any project, including Interstate projects, costing less than $1 million and repeals a requirement for a final inspection upon completion of construction. Certification acceptance will not be applicable for projects costing $1 million or more.

SECTION 113—AVAILABILITY

This section consolidates provisions concerning availability in section 118 of title 23. The following identifies changes from current law. References are to 23 U.S.C. 118, as amended.

Paragraph (b)(1) provides 4-year availability for the Interstate-primary program, with any unobligated funds lapsing at the end of the period.

Paragraph (b)(2) clarifies the availability of bridge replacement and rehabilitation funds. Apportioned funds remain available for obligation in a State for 4 years with unobligated funds reallocated as bridge discretionary funds. Bridge discretionary funds remain available for obligation in a State during the year of allocation with unused authority available to the Secretary for further reallocation.

Paragraph (b)(3) clarifies Interstate substitution availability, making both apportioned and allocated funds available for obligation in a State for 2 years. Unobligated funds shall be reapportioned or reallocated.

Paragraph (b)(4) establishes an availability period for minimum apportionment funds. The funds remain available for obligation for 4 years with any unobligated funds lapsing at the end of the period.

Paragraph (b)(5) continues the current 3-year availability period for highway emergency relief funds.

SECTION 114—FEDERAL SHARE PAYABLE

This section revises section 120 of title 23, United States Code, by consolidating Federal share provisions corresponding to program changes and removing archaic provisions. The significant changes follow. (Unless otherwise noted, the references that follow pertain to 23 U.S.C. 120, as amended). In each instance, permissive language is used to specify a maximum Federal share rather than a fixed percentage. The objective is to permit States to request a Federal matching share less than the maximum amount shown in title 23 and to permit adjustment in the matching ratio not to exceed the maximum specified rate.

Subsection (a) provides for a Federal share for Interstate-primary funds used on the primary system (other than the Interstate) and for bridge replacement and rehabilitation funds of not to exceed 75 percent of the cost of construction. These percentages may be increased under the sliding scale provisions of current law. Previously, the Federal share for bridge projects was contained in 23 U.S.C. 14 and fixed at 80 percent.

Subsection (b) provides that Interstate projects will have a Federal share of not to exceed 90 percent. Routes designated as Interstate under section 139(a) and 139(b) of title 23 prior to March 9, 1984, and under 23 U.S.C. 139(c) will be able to be improved at a 90-percent Federal share. These percentages may be increased in certain circumstances under current law.

Subsection (c) provides a maximum Federal share of 85 percent for Interstate substitution projects. The increased share of 100 percent for traffic control signalization substitution projects has been deleted.

Subsection (e) limits the Federal share for emergency relief (ER) projects to the normal rate for a project on a system. The Federal share may be increased based on sliding scale rates. Emergency repairs within 30 days of the occurrence of the emergency may be 100 percent. ER Federal lands highway projects may be 100 percent regardless of their location on a Federal-aid system.

Subsection (i) retains a maximum Federal share of 90 percent for the safety construction categories. The special increased shares of up to 100 percent for projects financed from system funds for traffic control signalization, pavement marking, and commuter carpooling and vanpooling have been eliminated. Rail-highway crossing projects financed with system funds will continue to be eligible for 100-percent funding.

Subsection (k) reiterates the intent of a maximum Federal share as described above.

SECTION 115—EMERGENCY RELIEF

This section amends section 125 of title 23, United States Code, to remove archaic provisions and to transfer authorization provisions and availability provisions to more appropriate settings. The territories are made eligible for emergency relief with a $5 million cap on obligations during any one fiscal year.

SECTION 116—VEHICLE WEIGHT LIMITATIONS—INTERSTATE SYSTEM

The current penalty provision in 23 U.S.C. 127(a) is revised to provide that any withheld funds lapse upon expiration of the 4-year availability period.

SECTION 117—TOLL ROADS, BRIDGES, TUNNELS AND FERRIES

This section adds the State of Maine to States that may operate Federal-aid ferry boats in international waters, and codifies section 105 of the Federal-Aid Highway Act of 1978.

SECTION 118—RAILWAY-HIGHWAY CROSSINGS

This section amends section 130 of title 23, United States Code, to add the provisions of section 203 of the Highway Safety Act of 1973 to title 23, United States Code. References that follow are to 23 U.S.C. 130, as amended.

Subsection (a) provides that Federal-aid Interstate-primary program funds apportioned under section 104 of title 23 may be used to pay for the entire cost of construction of projects for the elimination of hazards at railway-highway crossings (including relocation of a portion of a railway if determined to be less costly than other alternate methods) except as provided in section 120 of title 23.

Subsection (d) requires that States conduct and systematically maintain a survey of all railway-highway crossings and establish and implement projects for their separation, relocation, or protection. At a minimum, adequate signing would be provided for all crossings.

Subsection (e) provides that funds authorized to carry out section 130 may be used for projects to eliminate hazards at railway-highway crossings on any public road and are to be available for obligation in the same manner as Federal-aid Interstate-primary program funds. At least half of the funds authorized and expended for this section are to be used for the installation of protective devices at railway-highway crossings.

The amendments also retain provisions of 23 U.S.C. 130 pertaining to railroads share of project cost. A provision of 23 U.S.C. 130 concerning the local matching share is deleted and a report to the Congress is deleted.

SECTION 119—STRATEGIC HIGHWAY RESEARCH PROGRAM [SHRP]

This section adds a provision for SHRP to title 23, United States Code. The SHRP will be funded by deducting ¼ of 1 percent for five fiscal years from funds authorized for the programs specified in sections 104(c) and 501(a)(1) of title 23, United States Code. The Secretary will carry out the SHRP in cooperation with State highway depart-

ments and will set standards for the use of the funds to conduct research, development and technology transfer activities determined to be strategically important to the national highway transportation system. The Secretary may provide grants to and enter into compensation agreements with the American Association of State Highway Transportation Officials or the National Academy of Science or both to conduct appropriate portions of SHRP. Advance payments may be made under the SHRP program. No State matching share is required for the SHRP and the funds will remain available for 4 years.

SECTION 120—TRANSPORTATION PLANNING IN CERTAIN URBAN AREAS

Section 134 of title 23, United States Code, provides that all levels of government—Federal, state and local—engage in a continuing, cooperative, and comprehensive (3C) process of planning transportation facilities in urban areas of more than 50,000 population.

This section would amend section 134 by raising the population threshold for urbanized areas that are required to have a 3C process from that of more than 50,000 to 200,000 or more. Urbanized areas with population between 50,000 to 200,000 would not be required to follow federally prescribed planning requirements.

Section 134 is further amended to delete certain factors from consideration in carrying out the 3C process and provides the Secretary with greater flexibility in ensuring that the provisions of this section are met.

These amendments are made in concert with those proposed in section 106, amending section 104(f) of title 23, United States Code. Nothing in these amendments is intended to preclude State and local officials from continuing their planning process or a metropolitan planning organization, or both, in urbanized areas with population between 50,000 and 200,000.

Section (b)(1) and (c) from the existing section 134 are no longer needed and are eliminated.

SECTION 121—SKILL TRAINING

This section makes technical amendments to 23 U.S.C. 140, reduces the skill training program set aside in 23 U.S.C 140(b) from $10,000,000 per fiscal year to $2,500,000 per fiscal year for the fiscal years 1987 and 1988 and repeals the skill training program set aside effective September 30, 1988. An amendment is added to permit States to use not more than 0.1 percent of their apportioned Federal-aid highway funds for skill training beginning with the fiscal year 1987.

SECTION 122—HIGHWAY BRIDGE REPLACEMENT AND REHABILITATION PROGRAM

The Highway Bridge Replacement and Rehabilitation Program remains essentially the same, except for restructuring. The inventory of all highway bridges on public roads is required with a current inventory of all bridges to be maintained by the State. Section 144(d), which replaces section 144(h), adds a new criterion that will allow both tidal and nontidal navigable waterways to be exempt from the requirements for a Navigational Permit if the waterways are not used by small craft 26 feet or greater in length. In this context, "use is meant to mean regular or seasonal use as compared with occasional use. The off-system bridge program is deleted to become a part of the highway block grant. The requirement for an annual bridge report to the Congress is deleted from section 144 and added to the biennial highway needs report required in 23 U.S.C. 307(e).

SECTION 123—FEDERAL-AID INTERSTATE-PRIMARY PROGRAM

This section amends section 146 of title 23 to establish the Federal-Aid Interstate-Primary Program. The Interstate-primary program will stress bringing all elements of the primary system to acceptable standards of operation and safety. The program will consist of both new construction and 4R work on the primary system and the Interstate System (including under section 139). As such, the Interstate-primary program will include traditional primary program projects, Interstate construction projects, and Interstate resurfacing, restoration, rehabilitation and reconstruction projects.

The designated Interstate System in all the States will command priority attention in maintaining its high level of serviceability. At the same time, there is sufficient flexibility to allow States to concentrate on neglected primary routes and other primary routes which have developed into significant interstate traffic carriers.

SECTION 124—FEDERAL LANDS HIGHWAYS PROGRAM

Subsection (a) amends 23 U.S.C. 202(a) to provide a formula for the allocation of forest highways funds.

Subsection (b) amends 23 U.S.C. 203 to clarify the point of obligation.

Subsection (c) amends 23 U.S.C. 204(a) to include planning, research, design and construction as eligible activities under the Federal lands highways program.

Subsection (d) gives the Secretary of Transportation added authority over park roads and parkways and Indian reservation roads.

SECTION 125—TERRITORIAL HIGHWAY PROGRAM

This Act returns the Territorial Highway Program to its status prior to passage of the 1982 STAA except that (1) territorial highway funds will continue to come from the Highway Account of the Highway Trust Fund rather than the general fund and (2) the program will remain a contract authority program rather than revert to budget authority.

Subsection (f) of section 215 is amended to clarify that the provisions of Chapter 1 of title 23 which are applicable to Interstate-primary program funds and the primary system are applicable to the Territorial Highway Program. It also authorizes a Federal-aid system in each territory similar to the primary system established by the provisions of the 1982 STAA and provides that the Secretary may determine the applicability of the provisions of Chapter 1.

SECTION 126—RESEARCH AND PLANNING

This section amends section 307(c) of title 23, United States Code. Section 307(c)(1), as amended, requires that not less than 1 and ½ percent of the sums apportioned each fiscal year to any State for the Federal-aid Interstate-primary and the bridge replacement and rehabilitation programs are to be used for highway planning and research activities. The list of activities specifically eligible to be funded under section 307(c) has been expanded to include technology transfer activities. The optional one-half percent planning funds takedown provided by former subsection 307(c)(3) of title 23, United States Code, has been eliminated.

Section 307(e) is amended to include the annual bridge report, formerly in section 144, in the biennial highway needs report.

SECTION 127—NATIONAL HIGHWAY INSTITUTE

This section modifies 23 U.S.C. 321 to direct the Secretary to provide training at no cost to States and local governments for activities which result from Federal requirements and to allow the States to use Federal-aid funds to pay 75 percent of the cost of education and training purchased from any source including the National Highway Institute.

SECTION 128—DONATIONS

The section provides procedural safeguards to insure that early donations do not prejudice the full assessment of alternatives required by such laws as the National Environmental Policy Act of 1969, as amended.

SECTION 129—REGULATIONS OF TOLLS

This section amends various Federal statutes to eliminate the authority of the Federal Highway Administrator to regulate the rate of tolls on bridges by determining the reasonableness of those tolls. States and toll authorities would be given greater flexibility in operating toll facilities. Federal oversight of the reasonableness of tolls has proven to be administratively burdensome, legally unproductive, and has interjected the Federal Government in the role of a mediator in disputes which could more appropriately be settled at the State and local level.

SECTION 130—INTERSTATE SYSTEM WITHDRAWALS

This section provides for the repeal of section 107(e) of the Federal-Aid Highway Act of 1978 which provided the September 30, 1986, deadline for commencing construction of all Interstate segments and on all substitute projects if sufficient Federal funds are available. The deadline has been met on all Interstate segments and sufficient funds are not available for substitute projects.

SECTION 131—BRIDGE CONSTRUCTION

This section provides an amendment to eliminate the need for special legislation to amend prior acts of Congress in connection with the construction, reconstruction, maintenance, or operation of bridges authorized prior to August 2, 1946.

SECTION 132—INTERIM AMENDMENTS

Subsection (a) provides for unobligated balances of Interstate construction funds.

Subsection (b) makes the unobligated balances previously apportioned to a State under subsections 104(b)(1) (primary system program) and 104(b)(5)(B) (Interstate-4R program) of title 23, United States Code, as they existed prior to enactment of this legislation available for obligation for projects under section 146 (Federal-aid Interstate-primary program) of title 23, United States Code, as amended by this bill.

Subsection (c) provides that unobligated balances under the Federal-aid secondary and urban programs shall be used for highway construction projects on any main public road.

Subsection (d) provides that unobligated balances previously apportioned to a State for bridge replacement and rehabilitation will be available for obligation under section 144 of title 23, United States Code.

Subsection (e) provides that off-system bridges, including bridges previously on the urban or secondary systems that were partially funded under the discretionary bridge replacement and rehabilitation provisions of title 23 will be eligible for discretionary funds under section 104(d)(2)(A) of title 23, United States Code.

Subsection (f) makes the unobligated balances of funds apportioned to the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Is-

lands under the provisions of section 108 of the Highway Improvement Act of 1982 available for obligation under the provisions of section 215 of title 23, United States Code.

Subsection (g) makes the unobligated balances of funds apportioned to a State under section 203 of the Highway Safey Act of 1973 available for projects under section 130 of title 23, United States Code.

SECTION 133—TECHNICAL AND CONFORMING AMENDMENTS

Paragraph (a)(1) makes conforming amendments by amending the table of Sections for chapters 1, 2, 3, and 4.

Paragraph (a)(2) strikes references to the urban and secondary systems and other dated and unnecessary language. It also clarifies the definitions of "park road" and "public lands highways" in section 101(a) of title 23, United States Code.

Paragraph (a)(3) amends section 105 of title 23, United States Code, to conform to changes made to other sections of title 23, United States Code, by this bill.

Paragraph (a)(4) amends section 106 of title 23, United States Code, by increasing the maximum allowable amount for construction engineering from 10 to 15 percent and making conforming amendments.

Paragraph (a)(5) revises paragraph 107(a)(2) of title 23, United States Code, to make a conforming amendment.

Paragraph (a) (6) repeals subsection 109(c) and (m) of title 23, United States Code, and makes conforming amendments. Subsection 109(c) is unnecessary since the secondary system is being eliminated. The requirements of 109(m) are being incorporated into section 116 of title 23. Section 109 is relettered to conform to the changes made by this bill.

Paragraph (a)(7) repeals subsection 112(e) of title 23, United States Code. Subsection 112(e) pertains to the secondary system which is being eliminated by this bill.

Paragraph (a)(8) makes conforming amendments (eliminates reference to the secondary and urban systems) to section 113 of title 23, United States Code, and corrects a reference to title 40 of the United States Code.

Paragraph (a)(9) makes conforming amendments to section 115 of title 23, United States Code. All apportionments and allocations of funds for programs on which advance construction is permitted are now made under section 104 of title 23.

Paragraph (a)(10) makes conforming amendments to section 116 of title 23, United States Code, by eliminating the reference to the secondary system.

Paragraph (a)(11) makes a conforming amendment by repealing section 119 (Interstate System resurfacing) of title 23, United States Code. The Interstate 4R and primary program are being merged to give the States greater flexibility. The combined program is covered in section 146 of title 23.

Paragraph (a)(12) makes an amendment to section 121 of title 23, United States Code, by raising the limitation on construction engineering from 10 percent to 15 percent.

Paragraph (a)(13) amends section 122 of title 23, United States Code, to include repayment of bonds used for Interstate substitute projects.

Paragraph (a)(14) makes a conforming amendment to subsection 124(b) of title 23, United States Code. Reference to the Interstate withdrawal substitution provisions is eliminated since the deadline for such actions will have passed by the effective date of the bill.

Paragraphs (a)(15, (17), and (18) repeal sections 126 (Diversion), 135 (Traffic operations improvement programs), and 137 (Fringe and Corridor Parking facilities) of title 23, United States Code. Section 126 contains outdated language that is no longer meaningful since current State funding for highway programs far exceeds the level of revenues for State user taxes on June 18, 1934. Special funding for the TOPICS program has not been provided for a number of years. TOPICS type improvements are eligible for regular Federal-aid funds under the definition of construction in section 101 of title 23. Fringe and Corridor parking facilities no longer warrant special emphasis; they continue to be eligible for Interstate-primary program funds under the definition of construction in section 101 of title 23.

Paragraphs (a) (16), (19), and (20) make clarifying and conforming amendments to sections 128, 139, and 141 of title 23, United States Code.

Paragraph (a)(21) makes conforming amendments to section 142 of title 23, United States Code.

Paragraphs (a)(22) through (a)(26) repeal sections 143 (Economic Growth Center Development Highways), 147 (Priority Primary Routes), 148 (Development of a National Scenic and Recreational Highway), 150 (Allocation of Urban System Funds), and 151 (Pavement Marking Demonstration Program) of title 23, United States Code. The programs under sections 143, 147, 148, and 151 no longer warrant special emphasis. The construction activities for these programs will continue to be eligible for Federal-aid funds under the definition of construction in section 101 of title 23. Section 151 is no longer needed since the urban system program is being eliminated. The guaranteed "pass-through" provision for urbanized areas over 200,000 population is incorporated into the highway block grant. Any unobligated funds authorized for section 143 are rescinded. Unobligated balances of authorizations for section 147 shall remain available until October 1, 1987.

Paragraph (a)(27) makes conforming amendments to section 152 of title 23, United States Code.

Paragraph (a)(28) repeals subsection 154(c) of title 23, United States Code, which contains outdated language and makes conforming amendments to subsection 154(f) of title 23, United States Code.

Paragraphs (a) (29), (30), and (31) repeal sections 155 (Access highways to public recreation areas on certain lakes), 156 (Highways crossing Federal Projects), and 157 (Minimum Allocation) of title 23, United States Code. The programs under sections 155 and 156 no longer warrant special emphasis. The construction activities for these programs continue to be eligible for Federal-aid funds under the definition of construction in section 101 of title 23. Revised Minimum Allocation provisions are included in subsection 104(e) of title 23. Unobligated balances of authorizations for sections 155 and 156 shall remain available until October 1, 1987.

Paragraph (a)(32) makes conforming amendments to section 158 of title 23, United States Code.

Paragraph (a)(33) repeals section 201 (Authorizations) of title 23, United States Code, which contains outdated language.

Paragraph (a) (34) and (35) make conforming amendments to sections 204 and 210 of title 23, United States Code.

Paragraph (a)(36) repeals section 211 (Timber Access Road Hearings) of title 23, United States Code.

Paragraph (a)(37) repeals section 213 (Rama Road) of title 23, United States Code, and provides for the disposition of unobligated balances of authorizations for that section. This program has been inactive for a long time.

Paragraphs (a) (38) and (39) make conforming amendments to section 215 (Territorial highway program) and 217 (Bicycle transportation and pedestrian walkway) of title 23, United States Code, and change the Federal share payable for projects under section 217 from 100 percent Federal share to 75 percent Federal share. Bicycle transportation and pedestrian walkway projects no longer warrant special emphasis.

Paragraph (a)(40) repeals section 219 (Safer off-system roads). The safer off-system roads program is not a program of major Federal interest. The activities funded under this program will be eligible under the highway block grant. Unobligated balances of authorizations for section 219 shall remain available until October 1, 1987.

Paragraphs (a) (41), (42), and (43) make conforming amendments to sections 302, 311, and 315 of title 23, United States Code.

Paragraphs (a)(44) repeals section 322 (Demonstration Project-rail crossings) of title 23, United States Code. Unobligated balances of authorizations for section 322 shall remain available until October 1, 1987.

Paragraphs (a) (45), (46), and (47) make conforming amendments to sections 401, 402, and 406 of title 23, United States Code.

Paragraph (b)(1) repeals outstanding Interstate construction authorizations in section 108(b) of the Federal-Aid Highway Act of 1956.

Paragraph (b)(2) repeals section 163 of the Federal-Aid Highway Act of 1973 and provides that unobligated appropriations for that section shall remain available until expended.

Paragraph (b)(3) repeals section 203 of the Highway Safety Act of 1973. The major provisions of section 203 are codified in section 130 of title 23.

Paragraph (b)(4) repeals sections 118 and 119 of the Federal-Aid Highway Amendments of 1974 and provides that unobligated balances of authorizations for the sections shall remain available until October 1, 1987.

Paragraphs (b) (5), (6), (7), and (8) repeal section 146(c) of the Federal-Aid Highway Act of 1976, sections 105 and 141 of the Federal-Aid Highway Act of 1978, section 215 of the Highway Safety Act of 1978, and sections 105(d), 121(b), and 146 of the Highway Improvement Act of 1982. These sections contain provisions that are outdated, relate to programs that no longer warrant special emphasis, are not in conformance with the provisions of this bill, or are contrary to the objective of giving the States greater flexibility in the use of their funds. Unobligated balances of funds authorized or appropriated to carry out section 141 of the Federal-Aid Highway Act of 1978 are rescinded effective October 1, 1987.

TITLE II—HIGHWAY BLOCK GRANT ACT OF 1987

SECTION 201—SHORT TITLE

This section provides that Title II may be cited as the Highway Block Grant Act of 1987.

SECTION 202—HIGHWAY BLOCK GRANT

This section adds a new chapter (Chapter 5) to title 23, United States Code. This new

chapter contains the provisions of the highway block grant established by this Act. References that follow are to Chapter 5.

Section 501 specifies the apportionment procedures. Deductions for administrative expenses may be made before apportionment. Prior to apportionment of the funds authorized for fiscal years 1987 through 1991 and after the deduction for administrative expenses, the Secretary is required to deduct ¼ of 1 percent of the remaining funds for the purpose of carrying out the SHRP under section 133 of title 23, United States Code.

Thirty-five percent of the funds are apportioned to the States on the basis of the present urban system apportionment formula with no State receiving less than ½ of 1 percent of this 35 percent. Thirty percent of the funds are apportioned to the States on the basis of the current secondary system formula with no State (except the District of Columbia) receiving less than ½ of 1 percent of this 30 percent. The last 35 percent of the funds are apportioned to the States on the basis of nonprimary system bridge needs as determined from the inventories required under section 144 of title 23, United States Code. No State is to receive more than 10 percent or less than one-quarter percent of this 35 percent.

Apportionment of funds under this section will be an obligation of the Federal Government for their payment under section 502. Apportionment is to be made 25 percent on October 1, and 75 percent on January 1 of each fiscal year to allow for sequestration, if any, under Gramm-Rudman-Hollings.

Section 502 provides the method of payment to the States of funds apportioned under section 501. The States will be paid as work progresses.

Section 503 provides that funds which are apportioned to a State based on that State's urbanized areas having a population of 200,000 or more are to be allocated to the State's urbanized areas of 200,000 population or more. This section provides that local officials decide how funds apportioned under this section are to be spent. However, projects must have been developed in accordance with the planning process of section 134.

Section 504 provides that funds may be expended for highway construction projects on any main public road, for off-system bridge projects, and for activities provided in sections 134 and 307(c) of title 23, United States Code. Only costs incurred after the effective date of this Act would be eligible. Attributable funds allocated to urbanized areas may also be used for Federal-aid urban system projects previously eligible under 23 U.S.C. 142.

Section 505 provides that the Federal share for eligible projects cannot exceed 75 percent. The State or local matching share may consist of cash, real estate or inkind services.

Section 506 contains requirements and assurances to consult with local governments, to comply with audit law, to utilize environmental and relocation assistance procedures, to allow inspections to comply with nondiscrimination requirements, and others.

Section 507 provides that the prohibitions against discrimination on the basis of age under the Age Discrimination Act of 1975, on the basis of handicap under section 504 of the Rehabilitation Act of 1973, on the basis of sex under title IX of the Education Amendments of 1972, or on the basis of race, color, or national origin under title VI of the Civil Rights Act of 1964 apply to programs and activities that receive Federal financial assistance under Chapter 5. No person on the basis of sex is to be excluded from participation in, be denied benefits of or be subject to discrimination under, any program or activity that receives Federal financial assistance under Chapter 5. However, this does not prohibit any conduct or activities permitted under title IX of the Education Amendments Act of 1972.

Section 508 provides for withholding payments under Chapter 5 if the Secretary finds that a State or local government has failed to comply substantially with any provision of Chapter 5. Payments are to be withheld until appropriate corrective action is taken.

Section 509 provides that only the laws specified in sections 506 and 507 apply to funds expended under Chapter 5, that the definitions in section 101(a) of title 23, United States Code, apply to Chapter 5, and that the remainder of Chapters 1 through 4 of title 23, United States Code, do not apply to Chapter 5 unless specifically provided by Chapter 5.

SECTION 203—TECHNICAL AMENDMENT

This section provides a necessary technical amendment.

SECTION 204—AUTHORIZATION

This section authorizes $2.2 billion per fiscal year out of the Highway Account of the Highway Trust Fund for each of the fiscal years 1987 through 1990 to carry out the highway block grant.

SECRETARY OF TRANSPORTATION,
Washington, DC, January 5, 1987.

Hon. GEORGE BUSH,
President of the Senate, Washington, DC.

DEAR MR. PRESIDENT: I am submitting for your consideration draft bills entitled "Essential Highway Reauthorization Amendments of 1987", "Highway Safety Act of 1987", and "Highway Revenue Act of 1987".

These bills represent a major modification of the draft legislation I submitted on February 5, 1986. Because Congress adjourned last year without providing any new funds for highway construction and highway safety, enactment of highway reauthorization legislation is needed immediately. I am urging speedy enactment of basic reauthorizing legislation and would recommend that the President veto any legislation that includes costly special interest provisions.

We will transmit shortly a separate bill to reauthorize the transit program, which has sufficient appropriations from the General Fund for fiscal year 1987 and carryover of Trust Funds from previous years to fund the program in the near term.

The enclosed highway bill will provide approximately $53.5 billion in total authorizations for the highway construction and highway safety construction programs over the four-year period from fiscal year fiscal year 1987 to fiscal year 1990. All of the funding will come from user fees paid into the Highway Trust Fund (HTF). User fees will not be increased under our proposal, athough we do propose to end virtually all current tax exemptions.

We are proposing a combined Interstate/primary program composed of the Interstate construction, Interstate 4R, and primary programs. The combined program will be authorized at approximately $8.2 billion for fiscal year 1987 through fiscal year 1990. The formula for the combined program will be based on the current Interstate construction, 4R and primary formulas, thus retaining the relative distribution of these funds to the various States, but the States will decide how much will be spent on Interstate construction and reconstruction and primary construction and reconstruction.

State flexibility also will be increased by creating a block grant for other highway programs (urban, secondary, and nonprimary system bridges). This streamlined program will be authorized at a level of $2.2 billion per year for fiscal year 1987 through fiscal year 1990. The formula for the block grant will be based on the formulas for the programs being replaced so that each State will receive the same relative share of the funds. Detailed Federal reviews will be replaced by assurances of compliance from the States, thus providing a simpler, more efficient mechanism for delivery of these funds.

Substantial funding will continue to be made available for reconstruction of bridges on the primary system. Because of the continued need to improve safety on the Nation's highways, the hazard elimination and highway-railroad grade crossing programs will be retained as separate programs. The bill would also strengthen the Department's safety efforts by continuing our highway safety program while eliminating Federal earmarking of funds.

The Department believes user fee levels should not be increased and therefore, the revenue bill continues the current highway user fee tax structure. However, we have included provisions to end all major exemptions. The total amount made available to the States by the highway bill equals the amount currently projected to be paid into the Highway Account of the HTF over the four-year life of the highway bill. The authorizations are based on the average annual tax receipts projected for fiscal year 1987 through fiscal year 1990 period. A provision is included to permit the authorizations for certain programs for a particular fiscal year to be adjusted up or down if revised tax receipt projections indicate the receipts will be higher or lower. These provisions will ensure that the legislation is "deficit neutral" while at the same time permitting the authorizations to be increased if receipts increase.

These features are described in greater detail in the first enclosure. The second enclosure describes how much funding each state would receive under our proposal in the first year.

The Office of Management and Budget advises that, from the standpoint of the Administration's program, there is no objection to the submittal of this legislative proposal to Congress, and that its enactment would be in accord with the program of the President.

Sincerely,

ELIZABETH HANFORD DOLE.

Enclosure:—(1) Detailed Summary of Bills, (2) Estimated Highway Apportionments by State, (3) Bill and section-by-section analysis—the "Essential Highway Reauthorization Amendments of 1987", (4) Bill and section-by-section analysis—the "Highway Safety Act of 1987", (5) Bill and section-by-section analysis—the "Highway Revenue Act of 1987".●

By Mr. SASSER:

S. 313. A bill to make permanent the duty-free importation of hatter's fur, and for other purposes; to the Committee on Finance.

DUTY-FREE IMPORTATION OF HATTER'S FUR

● Mr. SASSER. Mr. President, today I am introducing legislation to make permanent the duty-free importation of hatter's fur. This bill is similar to legislation I introduced in the 99th Congress and which would have been included in last year's miscellaneous tariff bill.

The provisions in this tariff bill correct an inequity of current law. At present, these furskins are imported at a duty rate of 15 percent, substantially higher than the rate on semifinished hats. That is unfair to the U.S. hat producers who must compete with imported semifinished hats. The high duty on hatters' fur, together with the very low rate of duty on finished and semifinished hats threatens the viability of the industry's efforts to continue production in the United States of semifinished and finished hats from imported fur.

I want to point out that this measure will not harm American fur producers. The type of fur used in the manufacture of these hats is not found in the United States.

The measure will be of great assistance, however, to those workers whose livelihood depends on the hatmaking industry. One such facility is located in Winchester, TN. Winchester is a small community, Mr. President. Its people are dependent on a small number of businesses, such as the hatmaking factory, for their jobs. This is a rural area. There are few comparable jobs to which workers may transfer their skills. Many of these workers are prevented by family obligations from moving to a new area.

I urge my colleagues on the Finance Committee to again include this measure in the miscellaneous tariff bill and I look forward to its early consideration in the Senate.●

By Mr. PRESSLER (for himself, Mr. MATSUNAGA, Mr. INOUYE, Mr. HEINZ, Mr. DODD, Mr. STAFFORD, Mr. COCHRAN, Mr. SIMON, and Mr. D'AMATO):

S. 314. A bill to require certain telephones to be hearing aid compatible; to the Committee on Commerce, Science, and Transportation.

HEARING AID COMPATIBLE PHONES

Mr. PRESSLER. Mr. President, I raise today on behalf of myself and Senators MATSUNAGA, INOUYE, HEINZ, DODD, D'AMATO, STAFFORD, COCHRAN, and SIMON, to introduce legislation which will ensure that many of the hearing impaired members of our society will have access to telephone communications in the future. The Hearing Aid Compatability Act of 1987 would provide that all new telephones coming into service in the United States be hearing aid compatible.

The Hearing Aid Compatability Act of 1987 is a straightforward bill. The measure provides that any telephone manufactured, sold, rented, or otherwise distributed in the United States be hearing aid compatible. The measure applies only to telephones manufactured 6 months after the enactment of this act, and those telephones which must be registered with the FCC under 47 CFR 68.

This measure is virtually identical to an amendment I offered, along with 10 cosponsors, to the continuing resolution at the end of the 99th Congress. That amendment was adopted by the full Senate without objection, but was not accepted by the House in conference committee. The amendment itself was a simplified version of S. 402, a bill I introduced early in the last Congress which garnered 28 cosponsors. The broad base of support the measure generated both inside and outside the Senate indicate the necessity of hearing aid compatability legislation and encouraged me to offer the measure again in this Congress.

The need for this important legislation is clear. There are currently over 2 million hearing impaired people who can use only hearing aid compatible telephones. Hearing aid compatible technology has been available for over 35 years. However, since the breakup of the telephone industry the U.S. market has been flooded with incompatible telephones, thereby creating a crisis for the hearing impaired. Many of the telephones manufactured overseas are not hearing aid compatible, but compete with U.S.-manufactured telephones. If this trend continues the hearing impaired will become increasingly isolated from the mainstream of our society.

A hearing aid compatibility requirement would ensure that the hearing impaired would have equal access to voice telephones. This requirement would have little economic effect on the purchasers of telephone equipment. According to the Under Secretary of Commerce for International Trade:

> Telephone sets which are hearing aid compatible are not necessarily any more expensive either to produce, or in retail price, than sets which are not hearing aid compatible.

Previous legislative efforts have resulted in only token progress toward the goal of providing the hearing impaired with equal access to telephone communications. The Telecommunications for the Disabled Act of 1982 directed the Federal Communications Commission to create a category of hearing aid compatible "essential telephones." However, the result of the FCC regulations was the creation of a second class of citizens who are restricted to using only certain telephones.

The legislation I am introducing today will correct this inequity. By requiring all new telephones to be hearing aid compatible there will come a time when all members of our society will have free and equal access to telephone communication.

Mr. President, there is no cost to the Federal budget; no cost to anybody. It will end the flooding of our market with poorer telephones that do not meet these standards. I urge adoption of this legislation.

Mr. President, I send the bill to the desk and ask that it be printed in the RECORD.

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

S. 314

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Hearing Aid Compatibility Act of 1987".

SEC. 2. (a) Subject to the provisions of section (b), all telephones sold, rented, or distributed by any other means in the United States shall be hearing aid compatible, as defined in regulations promulgated by the Federal Communications Commission.

(b) The provisions of subsection (a) shall not apply to any telephone—

(1) that is manufactured before the effective date of this Act; or

(2) which is not required to be registered under 47 C.F.R. 68.

(c) The provisions of this Act shall be effective six months after the date of enactment of this Act.

By Mr. DIXON (for himself and Mr. SIMON):

S. 315. A bill to amend and extend the authorization for the Urban Mass Transportation Act of 1964; to the Committee on Banking, Housing, and Urban Affairs.

URBAN MASS TRANSPORTATION ACT

● Mr. DIXON. Mr. President, together with my distinguished colleague from Illinois, Senator SIMON, I am today introducting the Urban Mass Transportation Act of 1987.

I would like to say at the outset that this legislation is far from perfect. While the authorizations are structured to allow some possibility of higher funding from the mass transit account—if gas tax receipts and interest income are sufficient—the basic authorization levels it proposes are very modest. Except in the interstate transfer area, the authorization totals proposed are identical to those in the transit bill that passed the Senate last year by voice vote.

Further, the bill does not address many of the program issues that I believe need to be addressed. The transit program has worked well, but I think that it needs reform to help make it more efficient and to help ensure that major investments in transit systems are as cost-effective as possible.

There is not time, however, to undertake a comprehensive review of the transit program now. Federal highway and transit programs have expired, creating serious and rapidly growing

problems for State departments of transportation and transit operators around the Nation. We must act as quickly as possible, therefore, to reauthorize transit and highway legislation.

This legislation, therefore, is basically nothing more than an attempt to reauthorize Federal transit assistance for through fiscal 1990, and to resolve a few modest issues that have been pending for some time.

The bill does not restructure the two major transit programs. The section 3 Discretionary Grant Program—used to finance construction of new transit systems, to fund major repair and rehabilitation of existing rail systems, and to finance major bus purchases and bus facilities—and the Section 9 Formula Grant Program—used to finance routine capital and operating assistance needs—are not changed in any major way.

The bill does propose a major change, however, in the way those two programs are financed. Currently, the section 3 program is funded solely from the mass transit account—the gas tax—while section 9 is supported solely by appropriated general revenue funds. I am proposing that we merge these revenue sources so that both major programs are financed from both revenue sources.

There are two fundamental reasons, it seems to me, that this approach is very desirable. First, it ensures that the bulk of transit assistance will continue to be provided by formula. The bill proposes that 70 percent of transit funds should be distributed under the section 9 formula, while 30 percent is allocated to the Section 3 Discretionary Grant Program.

The Formula Grant Program needs this type of protection. Because it is funded out of general revenues, and because the transportation budget has been so tight in recent years, appropriations for section 9 have steadily declined in recent years. On the other hand, because the one penny Federal gas tax allocated to transit provides an income source that has grown steadily since it was created in 1982, section 3 funding has been relatively more stable, and there are a number of proposals to increase it significantly.

It is important to remember that transit already has the largest discretionary program in the Federal Government. It is also important to remember that many small- and medium-sized cities are ill-equipped to compete with the large transit systems for discretionary grants. Weakening the Formula Grant Program, therefore, tends to undermine the ability of the majority of transit systems in cities and towns around the country to meet their public transportation needs. However, strengthening the Formula Assistance Program by giving it access to more stable funding source—the mass transit account—provides the kind of certainty and reliability that are so important to small- and medium-sized transit systems, and indeed, to all transit systems.

In fiscal 1983, the Congress chose to allocate all gas tax revenues under the section 9 formula. The legislation I am introducing builds on that precedent. It guarantees that the bulk of transit assistance—at whatever overall funding level Congress chooses—will go out under the Formula Program, providing the kind of stability and predictability that most transit systems so badly need. That is why this concept is supported by many organizations representing local governments.

There is a second reason, though, for apportioning some of the gas tax money under the Formula Program. The gas tax is widely seen to be a type of user fee, rather than a general tax, such as the income tax. Some have suggested, therefore, that these "user fees" should be spent only in the State where they are raised. I will not take the time of the Senate to discuss this argument in detail; that can wait for another, more appropriate, time. I do want to say at this time that I do not share that view. I think it reflects an overly narrow approach to the issue involved.

For example, Illinois does well under both the Federal transit and highway programs. However, when all Federal assistance is considered, Illinois receives only about 68 cents for evey tax dollar it sends to Washington.

Even if you look at only the transit and highway programs, the equities do not lead to the conclusion that mass transit account funds should be spent only in the States where they are raised, regardless of their transit needs. I can illustrate this point with an example from my own State of Illinois. Cook County, which includes the city of Chicago, has the second largest transit system in the Nation. It is a very large population center. Its residents own almost 40 percent of the vehicles registered in the State of Illinois, but Cook County received only about 23 percent of the Federal highway money spent in Illinois. Some would say that the actual situation is even worse. If Federal interstate transfer-highway assistance is excluded—by law, this program operates only in the Chicago metro area—the county receives less than 10 percent of the regular Federal highway assistance provided to Illinois.

Of course, the situation is not really that inequitable. The Chicago area receives major Federal transit assistance, which results in a more equitable apportionment of transportation resources in my State—and that is the point. The transit and highway programs must be reviewed together.

Having said all that, however, I do think it makes sense to use at least some of the gas tax revenues to support the transit program that supports the largest number of transit systems. I would not propose that mass transit account funds should be allocated to States without regard to transit needs, but I do think it is appropriate to send gas tax money to every State to meet its transit needs under the section 9 formula. I would urge those of my colleagues who have expressed an interest in this issue in the past to examine this proposal. It should resolve some of their concerns, and it does so in a manner that does not do violence to the transit program.

There is a lot more I could say, Mr. President, about this issue and about a number of other provisions in the bill, but I will raise only two issues before I conclude.

First, I want to reiterate how important it is to act as quickly as possible to enact a highway-transit reauthorization bill as quickly as possible. I deeply regret that we failed to do so before the last Congress ended. We cannot afford further delay.

Second, it is my intention, after action on reauthorization legislation is completed, to seek hearings in the Senate Banking Committee, on which I serve, to examine a number of transit program issues. As I stated earlier, I believe it is long past time to take a look at the transit program, with a view toward restructuring it in a way that will improve its efficiency and its cost effectiveness. I think we need to take a close look at the way applications for construction of new transit systems are approved and financed. I think we need to see what kinds of incentives can be built into the transit program that will encourage transit operators to improve their efficiency. I think we need to examine how rail modernization needs might be met through a formula, rather than the current ad hoc system.

This comprehensive review can begin once we get the transit program and the highway program reauthorized. I urge my colleagues to work with me and with my colleagues on the Senate Banking Committee to achieve quick action on reauthorization legislation. I believe the bill I am introducing today can provide the basis for that action.

Mr. President, I ask unanimous consent that a summary of some of the major provisions of the bill and a copy of the bill be included at this point in the RECORD.

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

S. 315

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

SHORT TITLE

SECTION 1. This Act may be cited as the "Urban Mass Transportation Authorization Act of 1987".

AUTHORIZATIONS

SEC. 2. (a) Section 21 of the Urban Mass Transportation Act of 1964 is amended to read as follows:

"AUTHORIZATION

"SEC. 21. (a)(1) There is hereby authorized to be appropriated to carry out the provisions of sections 9 and 18 of this Act not to exceed such sums as are necessary for fiscal year 1987.

"(2) There shall be available from the Mass Transit Account of the Highway Trust Fund only to carry out section 3, 4(i), 8, and 16(b) of this Act $1,100,000,000 for the fiscal year 1986 and $1,000,000,000 for the fiscal year 1987.

"(b)(1) To carry out sections 3 and 9 of this Act, there are authorized to be appropriated not to exceed $1,690,000,000 for the fiscal year 1988, $1,693,000,000 for the fiscal year 1989, and $1,696,000,000 for the fiscal year 1990.

"(2) To carry out sections 3(j) and 9 of this Act, there shall be available from the Mass Transit Account of the Highway Trust Fund—

"(A) $1,300,000,000 for each of the fiscal years 1988 through 1990, plus

"(B) for each of the fiscal years 1988, 1989, and 1990, any annual income (including interest) attributable to the Mass Transit Account in excess of the (i) amount authorized by subparagraph (A) for each such year, and (ii) the amount authorized by subsection (e)(2); *Provided, however,* That in any fiscal year any such increase shall not exceed $100 million above the total amount provided from the Mass Transit Account in the previous fiscal year.

"(c) Of the amount made available under subsection (b)(1)—

"(A) during fiscal year 1988, 68 per centum shall be available for grants under sections 9, and 32 per centum shall be available for grants under sections 3; and

"(B) for fiscal years 1989 and 1990, 70 per centum shall be available for grants under section 9, and 30 per centum shall be available for grants under section 3.

"(d) Of the amount made available under subsection (b)(2)—

"(A) during fiscal year 1988, 68 per centum shall be available for grants under section 9, and 32 per centum shall be available for grants under section 3(j); and

"(B) for fiscal years 1989 and 1990, 70 per centum shall be available for grants under section 9(p), and 30 per centum shall be available for grants under section 3(j).

"(e)(1) For substitute mass transportation projects under section 103(e)(4) of title 23, United States Code, there are authorized to be appropriated—

"(A) such sums as are necessary for the fiscal year 1987;

"(B) $200,000,000 for fiscal year 1988;

"(C) $200,000,000 for fiscal year 1989; and

"(D) $200,000,000 for fiscal year 1990;

"(2) In addition to the amounts appropriated under paragraph (1), there shall be available for each such year from the mass Transit Account of the Highway Trust Fund, the sum of $50,000,000 if the annual income (including interest) attributable to that Account exceeds the amounts made available by subsection (b)(2) for that year.

"(f) During each of fiscal years 1987 through 1990, 2.93 per centum of the total funds available under section 9 shall be available to carry out section 18; provided, however, that all amounts for section 18 shall be drawn from appropriated funds.

"(g) Out of the funds made available under subsection (a)(2) of this section, not to exceed $46,000,000 shall be available for the purposes of Section 8 of this Act in fiscal year 1987. Out of the funds made available under subsections (b)(1) and (b)(2) of this section for the purposes of Section 3, $46,000,000 for each of the fiscal years 1988 through 1990 shall be available for the purposes of Section 8 of this Act. Nothing herein shall prevent the use of additional funds available under this subsection for planning purposes.

"(h) There is hereby authorized to be appropriated to carry out section 6, 10, 11(a), 12(a) and 20 of this Act not to exceed such sums as may be appropriated for fiscal year 1987, and $46,000,000 for each of the fiscal years 1988 through 1990. Sums appropriated pursuant to this subsection for financing projects funded under section 6 of this Act shall remain available until expended.".

SECTION 3 AMENDMENTS

SEC. 3. Section 3 of the Urban Mass Transit Act of 1964 is amended by adding at the end thereof the following:

"(i) of the amounts available for grants and loans under this section for fiscal years 1987, 1988, 1989, and 1990—

"(1) 45 percent shall be available for rail modernization;

"(2) 40 percent shall be available for construction of new fixed guideway systems and extensions to fixed guideway systems; and

"(3) 15 percent shall be available for the replacement, rehabilitation, and purchase of buses and related equipment and the construction of bus-related facilities.

"(j)(1) Funds made available under section 21(b) to carry out this subsection shall be made available as otherwise provided by this section.

"(2) Approval by the Secretary of a grant under this subsection shall be deemed a contractual obligation of the United States for the Federal share of the cost of the project.".

BLOCK GRANT PROGRAM AMENDMENTS

SEC. 4. (a) FUNDING OF PARTIAL PROGRAMS OF PROJECTS—Section 9(e)(2) of the Urban Mass Transportation Act of 1964 is amended by adding at the end thereof the following new sentence: "A grant may be made under this section to carry out, in whole or in part, a program of projects.".

(b) TRANSIT ADVERTISING REVENUES.—

(1) EXCLUSION FROM OPERATING REVENUES.—Section 9(k)(1) of such Act is amended by inserting after the third sentence the following new sentence: "For the purposes of the preceding sentence, 'revenues from the operation of a public mass transportation system' shall not include the amount of any revenues derived by such system from the sale of advertising and concessions which is in excess of the amount of such revenues derived by such system from the sale of advertising and concessions in fiscal year 1985.".

(2) ANNUAL REPORT.—Section 9(e) of such Act is amended by adding at the end thereof the following new paragraph:

"(4) ANNUAL REPORT TO SECRETARY.—Each recipient (including any person receiving funds from a Governor under this section) shall submit to the Secretary annually a report on the revenues such recipient derives from the sale of advertising and concessions.".

(c) APPORTIONMENTS WITH RESPECT TO SMALL URBANIZED AREAS.—

(1) AVAILABILITY TO GOVERNORS.—Section 9(m)(2) of such Act is amended to read as follows:

"(2) SMALL URBANIZED AREAS.—Sums apportioned under subsection (d) with respect to any urbanized area with a population of less than 200,000 shall be made available to the Governor for expenditure in such area.".

(2) TRANSFERS.—Section 9(n)(1) of such Act is amended to read as follows:

"(n) TRANSFER OF FUNDS.—

"(1) SMALL URBANIZED AREAS.—The Governor may transfer an amount apportioned under subsection (d) for expenditure in an urbanized area of less than 200,000 population to supplement funds apportioned to the State under section 18(a) of this Act or to supplement funds apportioned to other urbanized areas within the State. The Governor may make such transfers only after approval by responsible local elected officials and publicly owned operators of mass transportation services in each area with respect to which the funding was originally apportioned pursuant to subsection (d); except that, if the period of availability under subsection (o) of the funds proposed to be transferred will end within 90 days, the Governor may make such transfer without such approval if no approvable grant application is pending under this section for any project in such area. The governor may transfer an amount of the State's apportionment under section 18(a) to supplement funds apportioned for expenditure in the State under subsection (d). Amounts transferred shall be subject to the capital and operating assistance limitations applicable to the original apportionments of such amounts.".

(3) CONFORMING AMENDMENT.—Subsection (d) of section 9 of such Act is amended by striking out "which urbanized areas" and inserting in lieu thereof "which an urbanized area".

(d) DATE OF APPORTIONMENT.—Section 9 of such Act is further amended by adding at the end thereof the following new subsection:

"(u) DATE OF APPORTIONMENT.—Funds appropriated to carry out this section for any fiscal year shall be apportioned in accordance wth the provisions of this section not later than the tenth day following the date on which such funds are appropriated or October 1 of such fiscal year, whichever is later.".

(e) TECHNICAL AMENDMENTS.—(1) Section 9(e) of such Act is amended by adding at the end thereof the following new paragraph:

"(5) ACCEPTANCE OF CERTIFICATION.—No grant shall be made under this section to any recipient in any fiscal year unless the Secretary has accepted a certification for such fiscal year submitted by such person pursuant to this subsection.".

(2) Section 9(g) of such Act is amended by striking out paragraph (4).

NEWLY URBANIZED AREAS

SEC. 5. The last sentence of section 9(k)(2) of the Urban Mass Transportation Act of 1964 is amended by inserting "authorized" after "its".

LEASED PROPERTY

SEC. 6. Section 9(j) of the Urban Mass Transportation Act of 1964 is amended by inserting after the first sentence the following: "Grants for construction projects under this section shall also be available to finance the leasing of facilities and equipment for use in mass transportation service, subject

to regulations limiting such grants to leasing arrangements which are more cost effective than acquisition or construction. The Secretary shall publish regulations under the preceding sentence in proposed form in the Federal Register for public comment not later than 60 days after the date of enactment of this sentence, and shall promulgate such regulations in final form not later than 120 days after such date of enactment.".

SMALL URBANIZED AREA PROGRAM RESPONSIBILITY

SEC. 7. Section 9(m)(2) of the Urban Mass Transit Act of 1964 is amended by adding at the end thereof the following: "Responsibility for overall implementation and administration of this paragraph for urbanized areas of less than 200,000 shall remain vested in the Secretary.".

USE OF TRANSIT ACCOUNT FUNDS

SEC. 8. Section 9 of the Urban Mass Transportation Act of 1964 is amended by adding at the end thereof the following new subsections:

"(p) Approval by the Secretary of a grant under this section shall be deemed a contractual obligation of the United States for the Federal share of the cost of the project, up to the lesser of—

"(1) the total amount of a recipient's capital grants under this section; or

"(2) the percentage of the recipient's apportionment which is the ratio of the funds available under Section 21(b)(2) to the sum of the funds made available under Section 21 (b)(1) and (b)(2).".

"(q) Notwithstanding any other provision of this section, the Secretary shall—

"(1) reapportion funds available under section 21(b)(1) so that, to the extent practicable—

"(A) the amount made available from such funds to a recipient whose apportionment of such funds is less than the amount described in subsection (k)(2) is increased to not exceed the amount so described; and

"(B) the amount made available from such funds to a recipient whose apportionment of such funds is more than the amount described in subsection (k)(2) is reduced to not less than the amount so described; and

"(2) reapportion funds available under section 21(b)(2) so that the total amount of funds made available under this section to each recipient is not affected by the reallocation pursuant to paragraph (1).

If the total amount available to be reallocated pursuant to paragraph (1)(A) is insufficient to ensure that each recipient receives allocations under Section 21(b)(1) up to the level permitted by Section 9(k)(2), the difference shall be ratably shared by all recipients.".

CERTIFICATION REGARDING USE OF FUNDS

SEC. 9. Section 9 of the Urban Mass Transit Act of 1964 is amended by adding at the end thereof the following:

"(r) Not later than the close of the fiscal year succeeding the first fiscal year for which funds are appropriated under this section, a recipient shall certify to the Secretary that it is the intent of the recipient to use such funds as have not been obligated as of the date of certification. Any apportionments for the recipient not subject to such certification shall lapse as of the close of such fiscal year.".

REPORT ON SECTION 9 INCENTIVE TIER

SEC. 10. Section 9 of the Urban Mass Transit Act of 1964 is amended by adding at the end thereof the following:

"(s) Not later than June 1, of each year, the Secretary shall report to the Congress on the effect of subsections (b)(3) and (c)(3) on the apportionment of funds to each formula grant recipient.".

ADVANCE CONSTRUCTION

SEC. 11. (a) Section 3 of the Urban Mass Transit Act of 1964 is amended by adding at the end thereof the following new subsection:

"(k) ADVANCE CONSTRUCTION.—

"(1) APPROVED PROJECT.—Upon application of a state or local public body which carries out a project described in this section or a substitute transit project described in section 103(e)(4) of title 23, United States Code, or portion of such a project without the aid of Federal funds in accordance with all procedures and requirements applicable to such a project and upon the Secretary's approval of such application, the Secretary may pay to such applicant the Federal share of the net project costs if, prior to carrying out such project or portion, the Secretary approves the plans and specifications therefor in the same manner as other projects under this section or such section 103(e)(4), as the case may be.

"(2) BOND INTEREST.—

"(A) ELIGIBLE COST.—Subject to the provisions of this paragraph, the cost of carrying out a project or portion thereof, the Federal share of which the Secretary is authorized to pay under this subsection, shall include the amount of any interest earned and payable on bonds issued by the State or local public body to the extent that the proceeds of such bonds have actually been expended in carrying out such project or portion.

"(B) LIMITATION ON AMOUNT.—In no event shall the amount of interest considered as a cost of carrying out a project or portion thereof under subparagraph (A) be greater than the excess of—

"(i) the amount which would be the estimated cost of carrying out the project or portion if the project or portion were to be carried out at the time the project or portion is converted to a regularly funded project, over

"(ii) the actual cost of carrying out such project or portion (not including such interest).

"(C) CHANGES IN CONSTRUCTION COST INDICES.—The Secretary shall consider changes in construction cost indices in determining the amount under subparagraph (B)(i).".

(b) Section 9 of such Act is amended by adding at the end thereof the following new subsection:

"(t) ADVANCE CONSTRUCTION.—

"(1) APPROVED PROJECT.—When a recipient has obligated all funds apportioned to it under this section and proceeds to carry out any project described in this section (other than a project for operating expenses) or portion of such a project without the aid of Federal funds in accordance with all procedures and all requirements applicable to such a project, except insofar as such procedures and requirements limit a State to carrying out projects with the aid of Federal funds previously apportioned to it, the Secretary, upon application by such recipient and his approval of such application, is authorized to pay to such recipient the Federal share of the costs of carrying out such project or portion when additional funds are apportioned to such recipient under this section if, prior to carrying out such project or portion, the Secretary approves the plans and specifications therefor in the same manner as other projects under this section.

"(2) LIMITATION ON PROJECTS.—The Secretary may not approve an application under this subsection unless an authorization for this section is in effect for the fiscal year for which the application is sought beyond the currently authorized funds for such recipient. No application may be approved under this subsection which will exceed—

"(A) the recipient's expected apportionment under this section if the total amount of funds authorized to be appropriated to carry out this section for such fiscal year were so appropriated, less

"(B) the maximum amount of such apportionment which could be made available for projects for operating expenses under this section.

"(3) BOND INTEREST.—

"(A) ELIGIBLE COST.—Subject to the provisions of this paragraph, the cost of carrying out a project or portion thereof, the Federal share of which the Secretary is authorized to pay under this subsection, shall include the amount of any interest earned and payable on bonds issued by the recipient to the extent that the proceeds of such bonds have actually been expended in carrying out such project or portion.

"(B) LIMITATION ON AMOUNT.—In no event shall the amount of interest considered as a cost of carrying out a project or portion under subparagraph (A) be greater than the excess of—

"(i) the amount which would be the estimated cost of carrying out the project or portion if the project or portion were to be carried out at the time the project or portion is converted to a regularly funded project, over

"(ii) the actual cost of carrying out such project or portion (not including such interest).

"(C) CHANGES IN CONSTRUCTION COST INDICES.—The Secretary shall consider changes in construction cost indices in determining the amount under subparagraph (B)(i).".

UNIVERSITY TRANSPORTATION CENTERS

SEC. 12. (a) Section 11(b) of the Urban Mass Transportation Act of 1964 is amended to read as follows:

"(b) UNIVERSITY TRANSPORTATION CENTERS.—

"(1) GRANTS FOR ESTABLISHMENT AND OPERATION.—In addition to grants authorized by subsection (a) of this section, the Secretary shall make grants to one or more nonprofit institutions of higher learning to establish and operate one regional transportation center in each of the ten Federal regions which comprise the Standard Federal Regional Boundary System.

"(2) RESPONSIBILITIES.—The responsibilities of each transportation center established under this subsection shall include, but not be limited to, the conduct of infrastructure research concerning transportation and research and training concerning transportation of passengers and property and the interpretation, publication, and dissemination of the results of such research. The responsibilities of one of such centers may include research on the testing of new model buses.

"(3) APPLICATION.—Any nonprofit institution of higher learning interested in receiving a grant under this subsection shall submit to the Secretary an application in such form and containing such information as the Secretary may require by regulation.

"(4) SELECTION CRITERIA.—The Secretary shall select recipients of grants under this subsection on the basis of the following criteria:

"(A) The regional transportation center shall be located in a State which is representative of the needs of the Federal region for improved transportation services and facilities.

"(B) The demonstrated research and extension resources available to the grant recipient for carrying out this subsection.

"(C) The capability of the grant recipient to provide leadership in making national and regional contributions to the solution of both long-range and immediate transportation problems.

"(D) The grant recipient shall have an established transportation program or programs encompassing several modes of transportation.

"(E) The grant recipient shall have a demonstrated commitment to supporting ongoing transportation research programs with regularly budgeted institutional funds of at least $200,000 per year.

"(F) The grant recipient shall have a demonstrated ability to disseminate results of transportation research and educational programs through a statewide or regionwide continuing education program.

"(G) The projects which the grant recipient proposes to carry out under the grant.

"(5) MAINTENANCE OF EFFORT.—No grant may be made under this section in any fiscal year unless the recipient of such grant enters into such agreements with the Secretary as the Secretary may require to ensure that such recipient will maintain its aggregate expenditures from all other sources for establishing and operating a regional transportation center and related research activities at or above the average level of such expenditures in its two fiscal years preceding the date of enactment of this subsection.

"(6) FEDERAL SHARE.—The Federal share of a grant under this subsection shall be 50 percent of the costs of establishing and operating the regional transportation center and related research activities carried out by the grant recipient.

"(7) NATIONAL ADVISORY COUNCIL.—

"(A) ESTABLISHMENT; FUNCTIONS.—The Secretary shall establish in the Department of Transportation a national advisory council to coordinate the research and training to be carried out by the grant recipients, to disseminate the results of such research, to act as a clearinghouse between such centers and the transportation industry, and to review and evaluate programs carried out by such centers.

"(B) MEMBERS.—The council shall be composed of the directors of the regional transportation centers and 19 other members appointed by the Secretary as follows:

"(i) Six officers of the Department of Transportation one of whom represents the Office of the Secretary, one of whom represents the Federal Highway Administration, one of whom represents the Urban Mass Transportation Administration, one of whom represents the National Highway Traffic Safety Administration, one of whom represents the Research and Special Programs Administration, and one of whom represents the Federal Railroad Administration.

"(ii) Five representatives of State and local governments.

"(iii) Eight representatives of the transportation industry and organizations of employees in such industry.

A vacancy in the membership of the council shall be filled in the manner in which the original appointment was made.

"(C) TERM OF OFFICE; PAY; CHAIRMAN.—Each of the members appointed by the Secretary shall serve for a term of five years. Members of the council shall serve without pay. The chairman of the council shall be designated by the Secretary.

"(D) MEETINGS.—The council shall meet at least annually and at such other times as the chairman may designate.

"(E) AGENCY INFORMATION.—Subject to subchapter II of chapter 5 of title 5, United States Code, the council may secure directly from any department or agency of the United States information necessary to enable it to carry out this subsection. Upon request of the Chairman of the council, the head of such department or agency shall furnish such information to the council.

"(F) TERMINATION DATE INAPPLICABLE.—Section 14 of the Federal Advisory Committee Act shall not apply to the council.

"(8) ADMINISTRATION THROUGH OFFICE OF SECRETARY.—Administrative responsibility for carrying out this subsection shall be in the Office of the Secretary.

"(9) ALLOCATION OF FUNDS.—The Secretary shall allocate funds made available to carry out this subsection equitably among the Federal regions.

"(10) TECHNOLOGY TRANSFER SET-ASIDE.—Not less than 5 percent of the funds made available to carry out this subsection for any fiscal year shall be available to carry out technology transfer activities.".

(b) Section 21 of such Act is amended by adding at the end thereof the following new subsection:

"(i) UNIVERSITY TRANSPORTATION CENTERS.—

"(1) AMOUNT OF FUNDS.—There shall be available to the Secretary to carry out section 11(b) of this Act for each of fiscal years 1987, 1988, 1989, 1990, and 1991 $5,000,000 out of the Highway Trust Fund (other than the Mass Transit Account) and $5,000,000 out of such Mass Transit Account.

"(2) CONTRACT AUTHORITY.—Notwithstanding any other provision of law, approval by the Secretary of a grant with funds made available by paragraph (1) shall be deemed a contractual obligation of the United States for payment of the Federal share of the cost of the project.

"(3) PERIOD OF AVAILABILITY.—Funds made available by this subsection shall remain available until expended.".

(c) Section 11(a) of such Act is amended by inserting "GRANT PROGRAM.—" before "The Secretary".

SOLE SOURCE PROCUREMENTS

SEC. 13. Section 12(b) of the Urban Mass Transportation Act of 1964 is amended by adding at the end thereof the following new paragraph:

"(3) SOLE SOURCE PROCUREMENT CONTRACTS.—Any recipient of a grant under section 9 of this Act who is procuring an associated capital maintenance item under section 9(j) of this Act may, without receiving prior approval of the Secretary, contract directly with the original manufacturer or supplier of the item to be replaced if such recipient first certifies to the Secretary—

"(A) that such manufacturer or supplier is the only source for such item; and

"(B) that the price of such item is no higher than the price paid for such item by like customers.".

BUS REMANUFACTURING AND OVERHAULING OF ROLLING STOCK

SEC. 14. (a) Section 12(c)(1) of the Urban Mass Transportation Act of 1964 is amended by inserting "(A)" after "such term also means" and by inserting before the semicolon at the end thereof the following: ", (B) any bus remanufacturing project which extends the economic life of a bus eight years or more, and (C) any project for the overhaul of rolling stock (whether or not such overhaul increases the useful life of the rolling stock)". (b) The second sentence of section 9(j) of such Act is amended—

(1) by striking out "and materials" and inserting in lieu thereof ", tires, tubes, materials, and supplies"; and

(2) by striking out "1 per centum" and inserting in lieu thereof "one-half of 1 percent".

(c) Section 9(j) of such Act is amended—

(1) by inserting "(1)" before "Grants"; and

(2) by adding at the end thereof the following:

"(2) A project for the reconstruction (whether by employees of the grant recipient or by contract) of any equipment and materials each of which, after reconstruction, will have a fair market value no less than one-half of 1 percent of the current fair market value of rolling stock comparable to the rolling stock for which the equipment and materials are to be used shall be considered a project for construction of an associated capital maintenance item under this section.".

(d) The first sentence of section 9(k)(1) of such Act is amended by striking out "shall not exceed" the first place it appears and inserting in lieu thereof "shall be".

(e) Subparagraph (A) of section 3(a)(2) of such Act is amended to read as follows:

"(A) No grant or loan shall be provided under this section unless the Secretary determines that the applicant—

"(i) has or will have the legal, financial, and technical capacity to carry out the proposed project;

"(ii) has or will have satisfactory continuing control, through operation or lease or otherwise, over the use of the facilities and the equipment; and

"(iii) has or will have sufficient capability to maintain the facilities and equipment, and will maintain, such facilities and equipment.".

(f) The first sentence of section 9(k)(1) of such Act is further amended by striking out "(including capital maintenance items)" and inserting in lieu thereof "(including any project for the acquisition or construction of an associated capital maintenance item)".

PRIVATIZATION

SEC. 15. The Urban Mass Transportation Act of 1964 is amended by adding at the end thereof the following:

"PRIVATIZATION

SEC. 23. (a) It is the continuing intent of Congress, in authorizing Federal assistance under this Act, that the Federal Government should remain fully neutral on the question of public versus private operation of mass transportation services and activities.

"(b) In making grants or otherwise providing assistance under this Act, the Secretary shall neither regulate local decisions regarding service providers, nor require recipients of assistance under this Act to comply with any policy which—

"(1) mandates inclusion of any particular type of service provider on local transit

policy or governing boards or planning entities;

"(2) provides for Federal review of local processes and procedures for determining service providers; or

"(3) in any other way bases the granting or withholding of Federal assistance under this Act on the nature of the local process used to decide, or the decisions made, on the providers of mass transportation services and activities.

"(c) Nothing in this section shall be construed—

"(1) to prevent the Secretary from making grants for planning, demonstration, or technical assistance purposes which are intended to improve or develop the role of private companies in mass transportation; or

"(2) to affect any other provision of law governing procurement procedures where such procedures are utilized.".

PROJECT MANAGEMENT OVERSIGHT

SEC. 16. The Urban Mass Transportation Act of 1964 is amended by inserting at the end thereof the following new section:

"PROJECT MANAGEMENT OVERSIGHT

"SEC. 24. (a)(1) The Secretary may use as much as is necessary of the funds made available for each fiscal year by sections 21(a)(1), 21(a)(2)(B), and 4(g) of this Act, and section 14(b) of the National Capital Transportation Act of 1969 to contract with any person for the performance of project management oversight. Any contract entered into under this subsection shall provide for the payment by the Secretary of 100 percent of the cost of carrying out the contract.

"(2) Each recipient of assistance under this Act or section 14(b) of the National Capital Transportation Act of 1969 shall provide the Secretary and a contractor chosen by the Secretary in accordance with paragraph (1) such access to its construction sites and records as may be reasonably required.

"(b) As a condition of Federal financial assistance for a major capital project under this Act or the National Capital Transportation Act of 1969, the Secretary shall require the recipient to prepare, and, after approval by the Secretary, implement a project management plan which meets the requirements of subsection (c).

"(c) A project management plan may, as required in each case by the Secretary, provide for—

"(1) adequate recipient staff organization complete with well-defined reporting relationships, statements of functional responsibilities, job descriptions, and job qualifications;

"(2) a budget covering the project management organization, appropriate consultants, property acquisition, utility relocation, systems demonstration staff, audits, and such miscellaneous payments as the recipients may be prepared to justify;

"(3) a construction schedule;

"(4) a document control procedure and recordkeeping system;

"(5) a change order procedure which includes a documented, systematic approach to the handling of construction change orders;

"(6) organizational structures, management skills, and staffing levels required throughout the construction phase;

"(7) quality control and quality assurance functions, procedures, and responsibilities for construction and for system installation and integration of system components;

"(8) materials testing policies and procedures;

"(9) internal plan implementation and reporting requirements;

"(10) criteria and procedures to be used for testing the operational system or its major components;

"(11) periodic updates of the plan, especially with respect to such items as project budget and project schedule, financing, ridership estimates, and where applicable, the status of local efforts to enhance ridership in cases where ridership estimates are contingent, in part, upon the success of such efforts; and

"(12) the recipient's commitment to make monthly submissions of project budget and project schedule to the Secretary.

"(d) The Secretary shall promulgate such regulations as may be necessary to implement the provisions of this section. Such regulations shall be published in proposed form for comment in the Federal Register and shall be submitted for review to the Committee on Public Works and Transportation of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate not later than 60 days after the date of enactment of this section, and shall be promulgated in final form not later than 120 days after the date of enactment of this section. Such regulations shall, at a minimum, include the following:

"(1) A definition of the term 'major capital project' for the purpose of subsection (b). Such definition shall exclude projects for the acquisition of vehicles or other rolling stock, or for the performance of vehicle maintenance or rehabilitation.

"(2) A requirement that, in order to maximize the transportation benefits and cost savings associated with project management oversight, such oversight shall begin during the preliminary engineering stage of a project. The requirement of this paragraph shall not apply if the Secretary finds that it is more appropriate to initiate such oversight during another stage of the project.

"(e) The Secretary shall approve a plan submitted pursuant to subsection (b) within 60 days following its submittal. In the event that approval cannot be completed within 60 days, the Secretary shall inform the recipient of the reasons therefor and as to how much more time is needed for review to be completed. If a plan is disapproved, the Secretary shall inform the recipient of the reasons therefore.".

ADDITIONAL AMOUNT FOR SUBSTITUTE TRANSIT PROJECTS COST TO COMPLETE ESTIMATE

SEC. 17. (a) In addition to the total amount available to the Secretary under section 103 (e)(4)(B) of title 23, United States Code, there is authorized to be appropriated to the Secretary for fiscal years beginning after September 30, 1986, $100,000,000 to incure obligations under such section for the Federal share of either public mass transit projects, or the purchase of passenger equipment, described in such section.

(b) Any funds appropriated pursuant to paragraph (1) may only be obligated for projects substituted for any segment of interstate route the approval of which is withdrawn under section 103(e)(4) of such title before January 1, 1986.

(c) Notwithstanding section 103(e)(4) of such title, funds appropriated pursuant to paragraph (1) shall be made available in accordance with the apportionment factors contained in the committee print numbered 100-2 of the Committee on Public Works and Transportation of the House of Representatives.

SUMMARY OF MAJOR PROVISIONS—URBAN MASS TRANSPORTATION AUTHORIZATION ACT OF 1987

AUTHORIZATIONS

[In millions of dollars]

Program	Fiscal year—			
	1987	1988	1989	1990
Section 3	1,100			
Section 9	(1)			
Sections 3 and 9 general revenue		1,690	1,693	1,696
Mass Transit Acc't		1,300+	1,300+	1,300+
Interstate Transfer general revenue	(1)	200	200	200
Mass Transit Acc't		50	50	50
Section 18	(2)	(2)	(2)	(2)
Section 8	46*	46*	46*	46*
Sections 6, 10, 11(a), 12(a), and 20	(1)	50	50	50
University Centers	5*	5*	5*	5*

[1] Such sums.

[2] 2.93% of the total available to section 9 from all sources, but drawn from general revenues only.

Notes: (1) In 1988 through 1990, general revenues and mass transit account funds will be blended to finance both the Section 3 and the Section 9 program. (2) Mass Transit Account authorizations for Sections 3 and 9 in fy '88 through '80 could be increased above the $1.3 billion level, if annual income to the trust fund (including interest) is sufficient to support higher spending levels, that is if income from the gas tax and interest income total more than $1.35 billion annually. However, such increase would be limited to $100 million above the previous year's level. (3) Section 8 funding comes out of the total amount available for Section 3. (4) University transportation center funding will be drawn from the Mass Transit Account.

SECTION 3 AND 9 FINANCING

Currently, the Section 3 discretionary grant program is funded entirely out of the Mass Transit Account (1 cent of the federal gasoline tax is allocated to transit), while the section 9 formula grant program is funded entirely from general revenues (appropriated funds).

The bill funds both major programs out of both major funding sources. It establishes a 68-32 ratio between the Section 9 and Section 3 programs in fiscal '88, and a 70-30 ratio in fiscal '89 and '90. That means that in fiscal '90, for example, 70% of Mass Transit Account funds, and 70% of appropriated funds would be used to finance Section 9, and 30% of the funds from each of those sources would be used to finance Section 3. With the overall funding levels proposed in the bill, Sections 3, 9, and 18 would be financed as follows:

Section 9—general revenues, $1,125.8 million (70.% of $1.696 billion minus $61.4 million for Section 18).

Mass Transit Account Funds, $910 million (70.% of $1.3 billion).

Total, $2,035.8 million.

Section 3—general revenues, $508.8 million (30% of $1.696 billion).

Mass Transit Account Funds, $390 million (30% of $1.3 billion).

Total, $898.8 million.

Section 18—$61.4 million (2.93% of 2,097.2 million, the total Section 9 funding, including Section 18).

This example assumes Mass Transit Account funding of $1.3 billion.

Note on Operating Assistance:

The bill continues the prohibition on spending Mass Transit Account funds for operating assistance purposes. However, it contains a mechanism to assure that all recipients have general revenue sufficient to fund operating assistance up to their operating caps. The bill apportions funds from each source to each individual recipient. If any individual recipient's general revenue allocation is insufficient to fund operating assistance up to the cap in Section 9(k)(2), then general revenue funds would be reallocated from those with general revenue allocations in excess of their operating assistance needs. Communities receiving these re-

allocated general revenues would lose an identical amount of Mass Transit Account allocations, which would go to recipients who had their general revenue allocations lowered.

Therefore, the overall formula allocation for every recipient would not change. However, composition of that allocation would not necessarily be identical for all recipients. If a recipient's operating assistance cap is a very high proportion of his overall formula allocation, that recipient would receive a higher proportion of general revenue in his overall allocation. In the main, though, the ratio of general revenue to Mass Transit Account funds for each recipient will depend on the amounts available from the two funding sources.

SELECTED ADDITIONAL PROVISIONS

Allocation of Section 3 Funds—allocates Section 3 discretionary grant program funds into the following major categories: new starts, 40%; rail modernization, 45%; and bus, 15%.

University Transportation Centers—establishes regional transportation research centers to do highway and transit research.

Sole Source Procurement—permits limited sole source procurement for capital maintenance items.

Bus Remanufacturing and Overhaul—expands the availability of capital grants for major bus overhaul-related activities.

Privatization—ensures that the federal government remains neutral on the question of public vs. private operation of mass transit services and activities.

Project Management Oversight—creates a project management oversight system to help better manage major capital projects.

Interstate Transfer—Adds $100 million to the cost-to-complete estimate for Interstate Transfer-Transit projects, in order to make up for inflation since 1982 when the transit program was last reauthorized.

By Mr. WALLOP (for himself, Mr. DURENBERGER, and Mr. ZORINSKY):

S.J. Res. 18. Joint resolution to authorize and request the President to issue a proclamation designating June 1 through June 7, 1987 as "National Fishing Week"; to the Committee on the Judiciary.

NATIONAL FISHING WEEK

● Mr. WALLOP. Mr. President, today I am introducing a Senate joint resolution requesting and authorizing the President to proclaim June 1-7, 1987, as "National Fishing Week."

Fishing is a time honored and respected activity. In addition to providing protein-rich food, fishing has been a mainstay of the American culture. Millions of people enjoy the mental and physical benefits of fishing, following in the footsteps of the pioneers and native American Indians. One-third of all adults in the United States went fishing in 1985. Moreover, a recent Gallup Poll determined fishing was the second most popular national activity of Americans. In my family, it is the most popular recreational activity. We rejoice in it. We are rejuvenated by it and we anticipate it.

Sport fishing contributes in many ways to the health and well-being of our Nation. Not only our fishermen benefit from the great American outdoors, but nonfishermen can appreciate the economic 600,000 jobs and $25 billion per year that the sport fishing trade generates.

Last year, Congress and the President helped recognize the contributions of fishermen to our society by proclaiming a National Fishing Week. Across the country, people of all ages went to fishing clinics, participated in fishing tournaments, and environmental seminars. The topics of these activities ranged from catching and cooking to fishing laws and ethics.

The National Wildlife Federation, Optimists International, civic clubs, and manufacturers sponsored "Take a Kid Fishing" activities. Thirty-five State Governors issued free fishing day proclamations, which provided an avenue for nonfishermen to try the sport, to remind people who have not fished in a while of the joys of fishing, and to encourage families to fish together. The U.S. Fish and Wildlife Service held open houses, tournaments, and special exhibits.

It seems clear that a National Fishing Week provides a wonderful opportunity for children, handicapped persons, older Americans, and families to learn about our rich natural resources and the benefits of fishing. Children were encouraged to "Get hooked on fishing—not on drugs." Everyone was urged to "Take Pride in America," and work to enhance our environment.

Again, I would like each of you to join me in setting aside the first week in June to recognize the pleasure, nourishment, and economic strength that fishing brings to the American public.●

By Mr. WARNER (for himself, Mr. PELL, Mr. MATSUNAGA, Mr. CHAFEE, Mr. HOLLINGS, Mr. TRIBLE, Mr. HEINZ, Mr. MCCLURE, Mr. BURDICK, Mr. JOHNSTON, Mr. QUAYLE, and Mr. GLENN):

S.J. Res. 19. Joint resolution to designate March 20, 1987, as "National Energy Education Day"; to the Committee on the Judiciary.

NATIONAL ENERGY EDUCATION DAY

● Mr. WARNER. Mr. President, I rise to bring to the attention of my colleagues the importance of energy education in our Nation's schools, and to ask that they join me in designating March 20, 1987, as "National Energy Education Day" [NEED].

The task of increasing our students' awareness of energy issues and conservation efforts will be a long one, but one to which we must dedicate ourselves.

This important commemorative day will bring deserved attention to the growth of energy education during the past year.

Our Nation's schools are best equipped to accomplish this goal, and many have taken an innovative step and included energy education programs in their curriculum.

I expect that approximately 10,000 schools across the country will culminate months of planning and preparation with several days of activities celebrating the NEED '87 theme, "Energy Changes and Challenges."

Through energy education and a better understanding of the many choices and limitations that face our energy future, our children will be more prepared to make informed choices to promote our energy independence and security in the years ahead.

Since Congress started NEED in 1980 to highlight the importance of energy education, thousands of schools have benefited from the yearly program.

A network of thousands of State, regional, and local NEED committees have organized to provide energy educators with information on energy issues and to encourage and recognize their efforts.

Mr. President, I urge my colleagues to join me in cosponsoring this resolution so that we may spread the word of the NEED Program through celebrations and activities on March 20, 1987.

ADDITIONAL COSPONSORS

S. 1

At the request of Mr. MITCHELL, the names of the Senator from Mississippi [Mr. STENNIS], the Senator from Hawaii [Mr. MATSUNAGA], and the Senator from Missouri [Mr. BOND] were added as cosponsors of S. 1, a bill to amend the Federal Water Pollution Control Act to provide for the renewal of the quality of the Nation's waters, and for other purposes.

S. 2

At the request of Mr. BOREN, the name of the Senator from Wisconsin [Mr. PROXMIRE] was added as a cosponsor of S. 2, a bill to amend the Federal Election Campaign Act of 1971 to provide for a voluntary system of spending limits and partial public financing of Senate general election campaigns, to limit contributions by multi-candidate political committees, and for other purposes.

S. 51

At the request of Mr. HATCH, the name of the Senator from Utah [Mr. GARN] was added as a cosponsor of S. 51, a bill to prohibit smoking in public conveyances.

S. 58

At the request of Mr. DANFORTH, the name of the Senator from Mississippi [Mr. COCHRAN] was added as a cosponsor of S. 58, a bill to amend the Internal Revenue Code of 1986 to make the credit for increasing research activities

permanent and to increase the amount of such credit.

S. 69

At the request of Mr. TRIBLE, the name of the Senator from Nevada [Mr. HECHT] was added as a cosponsor of S. 69, a bill to amend the Internal Revenue Code of 1986 to repeal the basis recovery rule for pension plans.

S. 185

At the request of Mr. BURDICK, the name of the Senator from Minnesota [Mr. DURENBERGER] was added as a cosponsor of S. 185, a bill to authorize appropriations for certain highways in accordance with title 23, United States Code, and for other purposes.

S. 225

At the request of Mr. D'AMATO, the names of the Senator from Montana [Mr. MELCHER], and the Senator from Nevada [Mr. REID], were added as cosponsors of S. 225, a bill to amend title II of the Social Security Act to protect the benefit levels of individuals becoming eligible for benefits in or after 1979 by eliminating the disparity—resulting from changes made in 1977 in the benefit computation formula—between those levels and the benefit levels of persons who become eligible for benefits before 1979.

S. 250

At the request of Mr. HUMPHREY, the name of the Senator from California [Mr. WILSON] was added as a cosponsor of S. 250, a bill to prevent fraud and abuse in HUD programs.

S. 265

At the request of Mr. HUMPHREY, the name of the Senator from California [Mr. WILSON] was added as a cosponsor of S. 265, a bill to require executive agencies of the Federal Government to contract with private sector sources for the performance of commercial activities.

S. 266

At the request of Mr. HUMPHREY, the name of the Senator from Nevada [Mr. HECHT] was added as a cosponsor of S. 266, a bill to amend the Service Contract Act to reform the administration of such act, and for other purposes.

SENATE JOINT RESOLUTION 5

At the request of Mr. D'AMATO, the names of the Senator from South Carolina [Mr. THURMOND], the Senator from Michigan [Mr. LEVIN], the Senator from New York [Mr. MOYNIHAN], the Senator from Iowa [Mr. GRASSLEY], the Senator from Kansas [Mr. DOLE], the Senator from Nevada [Mr. REID], the Senator from Oklahoma [Mr. NICKLES], the Senator from South Dakota [Mr. PRESSLER], the Senator from Virginia [Mr. TRIBLE], and the Senator from Idaho [Mr. SYMMS] were added as cosponsors of Senate Joint Resolution 5, a joint resolution designating June 14, 1987, as "Baltic Freedom Day."

SENATE JOINT RESOLUTION 9

At the request of Mr. SARBANES, the names of the Senator from Arkansas [Mr. BUMPERS], the Senator from Arkansas [Mr. PRYOR], the Senator from Indiana [Mr. LUGAR], the Senator from South Dakota [Mr. DASCHLE], the Senator from Nebraska [Mr. ZORINSKY], the Senator from California [Mr. WILSON], and the Senator from Rhode Island [Mr. PELL] were added as cosponsors of Senate Joint Resolution 9, a joint resolution to designate the week of March 1, 1987, through March 7, 1987, as "Federal Employees Recognition Week."

SENATE JOINT RESOLUTION 15

At the request of Mr. PRESSLER, the names of the Senator from Illinois [Mr. DIXON], the Senator from Virginia [Mr. WARNER], the Senator from Ohio [Mr. METZENBAUM], and the Senator from Illinois [Mr. SIMON] were added as cosponsors of Senate Joint Resolution 15, a joint resolution designating the month of November 1987 as "National Alzheimer's Disease Month."

SENATE CONCURRENT RESOLUTION 2

At the request of Mr. PRESSLER, the name of the Senator from Nebraska [Mr. ZORINSKY] was added as a cosponsor of Senate Concurrent Resolution 2, a concurrent resolution expressing the sense of the Congress regarding the need for the negotiation of an international agricultural conservation reserve treaty.

SENATE RESOLUTION 52

At the request of Mr. LAUTENBERG, the names of the Senator from North Dakota [Mr. BURDICK], the Senator from Illinois [Mr. SIMON], the Senator from Hawaii [Mr. INOUYE], the Senator from New York [Mr. MOYNIHAN], the Senator from Maryland [Mr. SARBANES], the Senator from Pennsylvania [Mr. SPECTER], the Senator from Michigan [Mr. LEVIN], the Senator from Massachusetts [Mr. KERRY], the Senator from Maine [Mr. MITCHELL], and the Senator from New Jersey [Mr. BRADLEY] were added as cosponsors of Senate Resolution 52, a resolution to express the sense of the Senate regarding the Urban Development Action Grant Program.

SENATE RESOLUTION 53

At the request of Mr. LAUTENBERG, the names of the Senator from North Dakota [Mr. BURDICK], the Senator from Illinois [Mr. SIMON], the Senator from Hawaii [Mr. INOUYE], the Senator from New York [Mr. MOYNIHAN], the Senator from Maryland [Mr. SARBANES], the Senator from Pennsylvania [Mr. SPECTER], the Senator from Michigan [Mr. LEVIN], the Senator from Massachusetts [Mr. KERRY], the Senator from Maine [Mr. MITCHELL], and the Senator from New Jersey [Mr. BRADLEY] were added as cosponsors of Senate Resolution 53, a resolution to express the sense of the Senate regarding the Community Development Block Grant Program.

AMENDMENTS SUBMITTED

WATER QUALITY ACT

DOLE AMENDMENT NO. 1

Mr. DOLE proposed an amendment to the bill (H.R. 1) to amend the Federal Water Pollution Control Act to provide for the renewal of the quality of the Nation's waters, and for other purposes; as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

TABLE OF CONTENTS

(a) SHORT TITLE.—This Act may be cited as the "Water Quality Act of 1987".

(b) TABLE OF CONTENTS.—

(c) AMENDMENT OF FEDERAL WATER POLLUTION CONTROL ACT.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Federal Water Pollution Control Act.

(d) DEFINITION.—For purposes of this Act, the term "Administrator" means the Administrator of the Environmental Protection Agency.

SEC. 2. LIMITATION ON PAYMENTS.

No payments may be made under this Act except to the extent provided in advance in appropriation Acts.

TITLE I—AMENDMENTS TO TITLE I

SEC. 101. AUTHORIZATIONS OF APPROPRIATIONS.

(a) RESEARCH AND INVESTIGATIONS.—Section 104(u) is amended—

(1) in clause (1) by striking out "and" after "1975,", after "1980,", and after "1981,", and by inserting after "1982," the following: "such sums as may be necessary for fiscal years 1983 through 1985, and not to exceed $22,770,000 per fiscal year for each of the fiscal years 1986 through 1990,";

(2) in clause (2) by striking out "and" after "1981," and by inserting after "1982," the following: "such sums as may be necessary for fiscal years 1983 through 1985, and $3,000,000 per fiscal year for each of the fiscal years 1986 through 1990,"; and

(3) in clause (3) by striking out "and" after "1981," and by inserting after "1982," the following: "such sums as may be necessary for fiscal years 1983 through 1985, and $1,500,000 per fiscal year for each of the fiscal years 1986 through 1990,".

(b) GRANTS FOR PROGRAM ADMINISTRATION.—Section 106(a)(2) is amended by inserting after "1982" the following: ", such sums as may be necessary for fiscal years 1983 through 1985, and $75,000,000 per fiscal year for each of the fiscal years 1986 through 1990".

(c) TRAINING GRANTS AND SCHOLARSHIPS.—Section 112(c) is amended by striking out "and" after "1981," and by inserting after "1982," the following: "such sums as may be necessary for fiscal years 1983 through 1985, and $7,000,000 per fiscal year for each of the fiscal years 1986 through 1990,".

(d) AREAWIDE PLANNING.—Section 208(f)(3) is amended by striking out "and" after "1974," and after "1980," and by inserting after "1982" the following: ", and such sums as may be necessary for fiscal years 1983 through 1990".

(e) RURAL CLEAN WATER.—Section 208(j)(9) is amended by striking out "and" after "1981," and by inserting after "1982," the following: "and such sums as may be necessary for fiscal years 1983 through 1990,".

(f) INTERAGENCY AGREEMENTS.—Section 304(k)(3) is amended by inserting after "1983" the following: "and such sums as may be necessary for fiscal years 1984 through 1990".

(g) CLEAN LAKES.—Section 314(c)(2) is amended by striking out "and" after "1981," and by inserting after "1982" the following: ", such sums as may be necessary for fiscal years 1983 through 1985, and $30,000,000 per fiscal year for each of the fiscal years 1986 through 1990".

(h) GENERAL AUTHORIZATION.—Section 517 is amended by striking out "and" after "1981," and by inserting after "1982" the following: ", such sums as may be necessary for fiscal years 1983 through 1985, and $135,000,000 per fiscal year for each of the fiscal years 1986 through 1990".

SEC. 102. CHESAPEAKE BAY.

Title I is amended by adding at the end the following new section:

"SEC. 117. CHESAPEAKE BAY.

"(a) OFFICE.—The Administrator shall continue the Chesapeake Bay Program and shall establish and maintain in the Environmental Protection Agency an office, division, or branch of Chesapeake Bay Programs to—

"(1) collect and make available, through publications and other appropriate means, information pertaining to the environmental quality of the Chesapeake Bay (hereinafter in this subsection referred to as the "Bay");

"(2) coordinate Federal and State efforts to improve the water quality of the Bay;

"(3) determine the impact of sediment deposition in the Bay and identify the sources, rates, routes, and distribution patterns of such sediment deposition; and

"(4) determine the impact of natural and man-induced environmental changes on the living resources of the Bay and the relationships among such changes, with particular emphasis placed on the impact of pollutant loadings of nutrients, chlorine, acid precipitation, dissolved oxygen, and toxic pollutants, including organic chemicals and heavy metals, and with special attention given to the impact of such changes on striped bass.

"(b) INTERSTATE DEVELOPMENT PLAN GRANTS.—

"(1) AUTHORITY.—The Administrator shall, at the request of the Governor of a State affected by the interstate management plan developed pursuant to the Chesapeake Bay Program (hereinafter in this section referred to as 'the plan'), make a grant for the purpose of implementing the management mechanisms contained in the plan if such State has, within 1 year after the date of the enactment of this section, approved and committed to implement all or substantially all aspects of the plan. Such grants shall be made subject to such terms and conditions as the Administrator considers appropriate.

"(2) SUBMISSION OF PROPOSAL.—A State or combination of States may elect to avail itself of the benefits of this subsection by submitting to the Administrator a comprehensive proposal to implement management mechanisms contained in the plan which shall include (A) a description of proposed abatement actions which the State or combination of States commits to take within a specified time period to reduce pollution in the Bay and to meet applicable water quality standards, and (B) the estimated cost of the abatement actions proposed to be taken during the next fiscal year. If the Administrator finds that such proposal is consistent with the national policies set forth in section 101(a) of this Act and will contribute to the achievement of the national goals set forth in such section, the Administrator shall approve such proposal and shall finance the costs of implementing segments of such proposal.

"(3) FEDERAL SHARE.—Grants under this subsection shall not exceed 50 percent of the costs of implementing the management mechanisms contained in the plan in any fiscal year and shall be made on condition that non-Federal sources provide the remainder of the cost of implementing the management mechanisms contained in the plan during such fiscal year.

"(4) ADMINISTRATIVE COSTS.—Administrative costs in the form of salaries, overhead, or indirect costs for services provided and charged against programs or projects supported by funds made available under this subsection shall not exceed in any one fiscal year 10 percent of the annual Federal grant made to a State under this subsection.

"(c) REPORTS.—Any State or combination of States that receives a grant under subsection (b) shall, within 18 months after the date of receipt of such grant and biennially thereafter, report to the Administrator on the progress made in implementing the interstate management plan developed pursuant to the Chesapeake Bay Program. The Administrator shall transmit each such report along with the comments of the Administrator on such report to Congress.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There are hereby authorized to be appropriated the following sums, to remain available until expended, to carry out the purposes of this section:

"(1) $3,000,000 per fiscal year for each of the fiscal years 1987, 1988, 1989, and 1990, to carry out subsection (a); and

"(2) $10,000,000 per fiscal year for each of the fiscal years 1987, 1988, 1989, and 1990, for grants to States under subsection (b).".

SEC. 103. GREAT LAKES.

Title I is amended by adding at the end the following new section:

"SEC. 118. GREAT LAKES.

"(a) FINDINGS, PURPOSE, AND DEFINITIONS.—

"(1) FINDINGS.—The Congress finds that—

"(A) the Great Lakes are a valuable national resource, continuously serving the people of the United States and other nations as an important source of food, fresh water, recreation, beauty, and enjoyment;

"(B) the United States should seek to attain the goals embodied in the Great Lakes Water Quality Agreement of 1978 with particular emphasis on goals related to toxic pollutants; and

"(C) the Environmental Protection Agency should take the lead in the effort to meet those goals, working with other Federal agencies and State and local authorities.

"(2) PURPOSE.—It is the purpose of this section to achieve the goals embodied in the Great Lakes Water Quality Agreement of 1978 through improved organization and definition of mission on the part of the Agency, funding of State grants for pollution control in the Great Lakes area, and improved accountability for implementation of such agreement.

"(3) DEFINITIONS.—For purposes of this section, the term—

"(A) 'Agency' means the Environmental Protection Agency;

"(B) 'Great Lakes' means Lake Ontario, Lake Erie, Lake Huron (including Lake St. Clair), Lake Michigan, and Lake Superior, and the connecting channels (Saint Mary's River, Saint Clair River, Detroit River, Niagara River, and Saint Lawrence River to the Canadian Border);

"(C) 'Great Lakes System' means all the streams, rivers, lakes, and other bodies of water within the drainage basin of the Great Lakes;

"(D) 'Program Office' means the Great Lakes National Program Office established by this section; and

"(E) 'Research Office' means the Great Lakes Research Office established by subsection (d).

"(b) GREAT LAKES NATIONAL PROGRAM OFFICE.—The Great Lakes National Program Office (previously established by the Administrator) is hereby established within the Agency. The Program Office shall be headed by a Director who, by reason of management experience and technical expertise relating to the Great Lakes, is highly qualified to direct the development of programs and plans on a variety of Great Lakes issues. The Great Lakes National Program Office shall be located in a Great Lakes State.

"(c) GREAT LAKES MANAGEMENT.—

"(1) FUNCTIONS.—The Program Office shall—

"(A) in cooperation with appropriate Federal, State, tribal, and international agencies, and in accordance with section 101(e) of this Act, develop and implement specific action plans to carry out the responsibilities of the United States under the Great Lakes Water Quality Agreement of 1978;

"(B) establish a Great Lakes system-wide surveillance network to monitor the water quality of the Great Lakes, with specific emphasis on the monitoring of toxic pollutants;

"(C) serve as the liaison with, and provide information to, the Canadian members of the International Joint Commission and the Canadian counterpart to the Agency;

"(D) coordinate actions of the Agency (including actions by headquarters and regional offices thereof) aimed at improving Great Lakes water quality; and

"(E) coordinate actions of the Agency with the actions of other Federal agencies and State and local authorities, so as to ensure the input of those agencies and authorities in developing water quality strategies and obtain the support of those agencies and authorities in achieving the objectives of such agreement.

"(2) 5-YEAR PLAN AND PROGRAM.—The Program Office shall develop, in consultation with the States, a five-year plan and program for reducing the amount of nutrients introduced into the Great Lakes. Such program shall incorporate any management program for reducing nutrient runoff from nonpoint sources established under section 316 of this Act and shall include a program for monitoring nutrient runoff into, and ambient levels in, the Great Lakes.

"(3) 5-YEAR STUDY AND DEMONSTRATION PROJECTS.—The Program Office shall carry out a five-year study and demonstration projects relating to the control and removal of toxic pollutants in the Great Lakes, with emphasis on the removal of toxic pollutants from bottom sediments. In selecting locations for conducting demonstration projects under this paragraph, priority consideration shall be given to projects at the following locations: Saginaw Bay, Michigan; Sheboygan Harbor, Wisconsin; Grand Calumet River, Indiana; Ashtabula River, Ohio; and Buffalo River, New York.

"(4) ADMINISTRATOR'S RESPONSIBILITY.—The Administrator shall ensure that the Program Office enters into agreements with the various organizational elements of the Agency involved in Great Lakes activities and the appropriate State agencies specifically delineating—

"(A) the duties and responsibilities of each such element in the Agency with respect to the Great Lakes;

"(B) the time periods for carrying out such duties and responsibilities; and

"(C) the resources to be committed to such duties and responsibilities.

"(5) BUDGET ITEM.—The Administrator shall, in the Agency's annual budget submission to Congress, include a funding request for the Program Office as a separate budget line item.

"(6) COMPREHENSIVE REPORT.—Within 90 days after the end of each fiscal year, the Administrator shall submit to Congress a comprehensive report which—

"(A) describes the achievements in the preceding fiscal year in implementing the Great Lakes Water Quality Agreement of 1978 and shows by categories (including judicial enforcement, research, State cooperative efforts, and general administration) the amounts expended on Great Lakes water quality initiatives in such preceding fiscal year;

"(B) describes the progress made in such preceding fiscal year in implementing the system of surveillance of the water quality in the Great Lakes system, including the monitoring of groundwater and sediment, with particular reference to toxic pollutants;

"(C) describes the long-term prospects for improving the condition of the Great Lakes; and

"(D) provides a comprehensive assessment of the planned efforts to be pursued in the succeeding fiscal year for implementing the Great Lakes Water Quality Agreement of 1978, which assessment shall—

"(i) show by categories (including judicial enforcement, research, State cooperative efforts, and general administration) the amount anticipated to be expended on Great Lakes water quality initiatives in the fiscal year to which the assessment relates; and

"(ii) include a report of current programs administered by other Federal agencies which make available resources to the Great Lakes water quality management efforts.

"(d) GREAT LAKES RESEARCH.—

"(1) ESTABLISHMENT OF RESEARCH OFFICE.—There is established within the National Oceanic and Atmospheric Administration the Great Lakes Research Office.

"(2) IDENTIFICATION OF ISSUES.—The Research Office shall identify issues relating to the Great Lakes resources on which research is needed. The Research Office shall submit a report to Congress on such issues before the end of each fiscal year which shall identify any changes in the Great Lakes system with respect to such issues.

"(3) INVENTORY.—The Research Office shall identify and inventory Federal, State, university, and tribal environmental research programs (and, to the extent feasible, those of private organizations and other nations) relating to the Great Lakes system, and shall update that inventory every four years.

"(4) RESEARCH EXCHANGE.—The Research Office shall establish a Great Lakes research exchange for the purpose of facilitating the rapid identification, acquisition, retrieval, dissemination, and use of information concerning research projects which are ongoing or completed and which affect the Great Lakes system.

"(5) RESEARCH PROGRAM.—The Research Office shall develop, in cooperation with the Coordination Office, a comprehensive environmental research program and data base for the Great Lakes system. The data base shall include, but not be limited to, data relating to water quality, fisheries, and biota.

"(6) MONITORING.—The Research Office shall conduct, through the Great Lakes Environmental Research Laboratory, the National Sea Grant College program, other Federal laboratories, and the private sector, appropriate research and monitoring activities which address priority issues and current needs relating to the Great Lakes.

"(7) LOCATION.—The Research Office shall be located in a Great Lakes State.

"(e) RESEARCH AND MANAGEMENT COORDINATION.—

"(1) JOINT PLAN.—Before October 1 of each year, the Program Office and the Research Office shall prepare a joint research plan for the fiscal year which begins in the following calendar year.

"(2) CONTENTS OF PLAN.—Each plan prepared under paragraph (1) shall—

"(A) identify all proposed research dedicated to activities conducted under the Great Lakes Water Quality Agreement of 1978;

"(B) include the Agency's assessment of priorities for research needed to fulfill the terms of such Agreement; and

"(C) identify all proposed research that may be used to develop a comprehensive environmental data base for the Great Lakes System and establish priorities for development of such data base.

"(f) INTERAGENCY COOPERATION.—The head of each department, agency, or other instrumentality of the Federal Government which

is engaged in, is concerned with, or has authority over programs relating to research, monitoring, and planning to maintain, enhance, preserve, or rehabilitate the environmental quality and natural resources of the Great Lakes, including the Chief of Engineers of the Army, the Chief of the Soil Conservation Service, the Commandant of the Coast Guard, the Director of the Fish and Wildlife Service, and the Administrator of the National Oceanic and Atmospheric Administration, shall submit an annual report to the Administrator with respect to the activities of that agency or office affecting compliance with the Great Lakes Water Quality Agreement of 1978.

"(g) RELATIONSHIP TO EXISTING FEDERAL AND STATE LAWS AND INTERNATIONAL TREATIES.—Nothing in this section shall be construed to affect the jurisdiction, powers, or prerogatives of any department, agency, or officer of the Federal Government or of any State government, or of any tribe, nor any powers, jurisdiction, or prerogatives of any international body created by treaty with authority relating to the Great Lakes.

"(h) AUTHORIZATIONS OF GREAT LAKES APPROPRIATIONS.—There are authorized to be appropriated to the Administrator to carry out this section not to exceed $11,000,000 per fiscal year for the fiscal years 1987, 1988, 1989, 1990, and 1991. Of the amounts appropriated each fiscal year—

"(1) 40 percent shall be used by the Great Lakes National Program Office on demonstration projects on the feasibility of controlling and removing toxic pollutants;

"(2) 7 percent shall be used by the Great Lakes National Program Office for the program of nutrient monitoring; and

"(3) 30 percent shall be transferred to the National Oceanic and Atmospheric Administration for use by the Great Lakes Research Office.".

SEC. 104. RESEARCH ON EFFECTS OF POLLUTANTS.

In carrying out the provisions of section 104(a) of the Federal Water Pollution Control Act, the Administrator shall conduct research on the harmful effects on the health and welfare of persons caused by pollutants in water, in conjunction with the United States Fish and Wildlife Service, the National Oceanic and Atmospheric Administration, and other Federal, State, and interstate agencies carrying on such research. Such research shall include, and shall place special emphasis on, the effect that bioaccumulation of these pollutants in aquatic species has upon reducing the value of aquatic commercial and sport industries. Such research shall further study methods to reduce and remove these pollutants from the relevant affected aquatic species so as to restore and enhance these valuable resources.

TITLE II—CONSTRUCTION GRANTS AMENDMENTS

SEC. 201. ELIGIBILITIES, CSOs, DISPUTE RESOLUTION, LIMITATIONS.

(a) Section 201(g)(1) is amended by striking out the third sentence and inserting in lieu thereof: "Notwithstanding the preceding sentence, the Administrator is authorized to make grants to States for the provision of loans to municipalities or intermunicipal or interstate agencies for the construction of publicly owned treatment works, as provided under section 220. On and after October 1, 1987, grants under this section shall first be made for projects within the categories listed in the preceding sentence that are necessary to maintain progress, as determined by the Governor, to meet the enforceable deadlines, goals, and requirements of the Act.

(b) Section 201(n) is repealed and subsection 201(o) is redesignated 201(n).

(c) Section 201 is amended by adding at the end thereof the following new subsection:

"(o) TIME LIMIT ON RESOLVING CERTAIN DISPUTES.—In any case in which a dispute arises with respect to the awarding of a contract for construction of treatment works by a grantee of funds under this title and a party to such dispute files an appeal with the Administrator under this title for resolution of such dispute, the Administrator shall make a final decision on such appeal within 90 days of the filing of such appeal.".

(d) Section 204(c) is amended by inserting "awarded a grant before October 1, 1990," immediately after "such facility and interceptors".

SEC. 202. FEDERAL SHARE.

(a) Section 202(a)(1) is amended by striking out the period at the end thereof and inserting in lieu thereof ", for any such grants made before October 1, 1990.".

(b) PROJECTS UNDER JUDICIAL INJUNCTION.—Section 202(a)(1) is amended by adding at the end thereof the following: "Notwithstanding the first sentence of this paragraph, in the case of a project for which an application for a grant under this title has been made to the Administrator before October 1, 1984, and which project is under judicial injunction on such date prohibiting its construction, such project shall be eligible for grants at 75 percent of the cost of construction thereof.".

(d) BIODISC EQUIPMENT.—Section 202(a)(3) is amended by adding at the end thereof the following: "In addition, the Administrator is authorized to make a grant to fund all of the costs of the modification or replacement of biodisc equipment (rotating biological contactors) in any publicly owned treatment works if the Administrator finds that such equipment has failed to meet design performance specifications, unless such failure is attributable to negligence on the part of any person, and if such failure has significantly increased capital or operating and maintenance expenditures.".

(e) INNOVATIVE PROCESS.—The activated bio-filter feature of the project for treatment works of the city of Little Falls, Minnesota, shall be deemed to be an innovative wastewater process and technique for purposes of section 202(a)(2) of the Federal Water Pollution Control Act and the amount of any grant under such Act for such feature shall be 85 percent of the cost thereof.

(f) AVAILABILITY OF CERTAIN FUNDS FOR NON-FEDERAL SHARE.—Notwithstanding any other provision of law, Federal assistance made available by the Farmers Home Administration to any political subdivision of a State may be used to provide the non-Federal share of the cost of any construction project carried out under section 201 of the Federal Water Pollution Control Act.

SEC. 203. AGREEMENT ON ELIGIBLE COSTS.

Section 203(a) is amended by inserting "(1)" after "(a)", by designating the last sentence as paragraph (3) and indenting such sentence as a paragraph, and by inserting before paragraph (3) as so designated the following:

"(2) AGREEMENT ON ELIGIBLE COSTS.—

"(A) LIMITATION ON MODIFICATIONS.—Before taking final action on any plans, specifications, and estimates submitted under this subsection after the 60th day following the date of the enactment of the Water Quality Act of 1987, the Administrator shall enter into a written agreement with the applicant which establishes and specifies which items of the proposed project are eligible for Federal payments under this section. The Administrator may not later modify such eligibility determinations unless they are found to have been made in violation of applicable Federal statutes and regulations.

"(B) LIMITATION ON EFFECT.—Eligibility determinations under this paragraph shall not preclude the Administrator from auditing a project pursuant to section 501 of this Act, or other authority, or from withholding or recovering Federal funds for costs which are found to be unreasonable, unsupported by adequate documentation, or otherwise unallowable under applicable Federal cost principles, or which are incurred on a project which fails to meet the design specifications or effluent limitations contained in the grant agreement and permit pursuant to section 402 of this Act for such project.".

SEC. 204. DESIGN/BUILD PROJECTS.

Section 203 is amended by adding at the end the following new subsection:

"(f) DESIGN/BUILD PROJECTS.—

"(1) AGREEMENT.—Consistent with State law, an applicant who proposes to construct waste water treatment works may enter into an agreement with the Administrator under this subsection providing for the preparation of construction plans and specifications and the erection of such treatment works, in lieu of proceeding under the other provisions of this section.

"(2) LIMITATION ON PROJECTS.—Agreements under this subsection shall be limited to projects under an approved facility plan which projects are—

"(A) treatment works that have an estimated total cost of $8,000,000 or less; and

"(B) any of the following types of waste water treatment systems: aerated lagoons, trickling filters, stabilization ponds, land application systems, sand filters, and subsurface disposal systems.

"(3) REQUIRED TERMS.—An agreement entered into under this subsection shall—

"(A) set forth an amount agreed to as the maximum Federal contribution to the project, based upon a competitively bid document of basic design data and applicable standard construction specifications and a determination of the federally eligible costs of the project at the applicable Federal share under section 202 of this Act;

"(B) set forth dates for the start and completion of construction of the treatment works by the applicant and a schedule of payments of the Federal contribution to the project;

"(C) contain assurances by the applicant that (i) engineering and management assistance will be provided to manage the project; (ii) the proposed treatment works will be an operable unit and will meet all the requirements of this title; and (iii) not later than 1 year after the date specified as the date of completion of construction of the treatment works, the treatment works will be operating so as to meet the requirements of any applicable permit for such treatment works under section 402 of this Act;

"(D) require the applicant to obtain a bond from the contractor in an amount determined necessary by the Administrator to protect the Federal interest in the project; and

"(E) contain such other terms and conditions as are necessary to assure compliance

with this title (except as provided in paragraph (4) of this subsection).

"(4) LIMITATION ON APPLICATION.—Subsections (a), (b), and (c) of this section shall not apply to grants made pursuant to this subsection.

"(5) RESERVATION TO ASSURE COMPLIANCE.—The Administrator shall reserve a portion of the grant to assure contract compliance until final project approval as defined by the Administrator. If the amount agreed to under paragraph (3)(A) exceeds the cost of designing and constructing the treatment works, the Administrator shall reallot the amount of the excess to the State in which such treatment works are located for the fiscal year in which such audit is completed.

"(6) LIMITATION ON OBLIGATIONS.—The Administrator shall not obligate more than 20 percent of the amount allotted to a State for a fiscal year under section 205 of this Act for grants pursuant to this subsection.

"(7) ALLOWANCE.—The Administrator shall determine an allowance for facilities planning for projects constructed under this subsection in accordance with section 201(l).

"(8) LIMITATION ON FEDERAL CONTRIBUTIONS.—In no event shall the Federal contribution for the cost of preparing construction plans and specifications and the building and erection of treatment works pursuant to this subsection exceed the amount agreed upon under paragraph (3).

"(9) RECOVERY ACTION.—In any case in which the recipient of a grant made pursuant to this subsection does not comply with the terms of the agreement entered into under paragraph (3), the Administrator is authorized to take such action as may be necessary to recover the amount of the Federal contribution to the project.

"(10) PREVENTION OF DOUBLE BENEFITS.—A recipient of a grant made pursuant to this subsection shall not be eligible for any other grants under this title for the same project.".

SEC. 205. GRANT CONDITIONS; USER CHARGES ON LOW-INCOME RESIDENTIAL USERS.

(a) INCLUSION OF PROJECT IN AREAWIDE PLAN.—Section 204(a)(1) is amended to read as follows:

"(1) that any required areawide waste treatment management plan under section 208 of this Act (A) is being implemented for such area and the proposed treatment works are included in such plan, or (B) is being developed for such area and reasonable progress is being made toward its implementation and the proposed treatment works will be included in such plan;".

(b) CONTINUING PLANNING PROCESS.—Section 204(a)(2) is amended to read as follows:

"(2) that (A) the State in which the project is to be located (i) is implementing any required plan under section 303(e) of this Act and the proposed treatment works are in conformity with such plan, or (ii) is developing such a plan and the proposed treatment works will be in conformity with such plan, and (B) such State is in compliance with section 305(b) of this Act;".

(c) USER CHARGES ON LOW-INCOME RESIDENTIAL USERS.—Section 204(b)(1) is amended by adding at the end thereof the following: "A system of user charges which imposes a lower charge for low-income residential users (as defined by the Administrator) shall be deemed to be a user charge system meeting the requirements of clause (A) of this paragraph if the Administrator determines that such system was adopted after public notice and hearing.".

(d) EFFECTIVE DATE.—This section shall take effect on the date of the enactment of this Act, except that the amendments made by subsections (a) and (b) shall take effect on the last day of the two-year period beginning on such date of enactment.

SEC. 206. ALLOTMENT FORMULA.

(a) FORMULA.—

(1) EXTENSION OF EXISTING FORMULA FOR 1986.—Section 205(c)(2) is amended by striking out "and September 30, 1985," and inserting in lieu thereof "September 30, 1985, and September 30, 1986,".

(2) FISCAL YEARS 1987-1990.—Section 205(c) is amended by adding at the end the following new paragraph:

"(3) FISCAL YEARS 1987-1990.—Sums authorized to be appropriated pursuant to section 207 for the fiscal years 1987, 1988, 1989, and 1990 shall be allotted for each such year by the Administrator not later than the 10th day which begins after the date of the enactment of this paragraph. Sums authorized for such fiscal years shall be allotted in accordance with the following table:

"States:	
Alabama	.011309
Alaska	.006053
Arizona	.006831
Arkansas	.006616
California	.072333
Colorado	.008090
Connecticut	.012390
Delaware	.004965
District of Columbia	.004965
Florida	.034139
Georgia	.017100
Hawaii	.007833
Idaho	.004965
Illinois	.045741
Indiana	.024374
Iowa	.013688
Kansas	.009129
Kentucky	.012872
Louisiana	.011118
Maine	.007829
Maryland	.024461
Massachusetts	.034338
Michigan	.043487
Minnesota	.018589
Mississippi	.009112
Missouri	.028037
Montana	.004965
Nebraska	.005173
Nevada	.004965
New Hampshire	.010107
New Jersey	.041329
New Mexico	.004965
New York	.111632
North Carolina	.018253
North Dakota	.004965
Ohio	.056936
Oklahoma	.008171
Oregon	.011425
Pennsylvania	.040062
Rhode Island	.006791
South Carolina	.010361
South Dakota	.004965
Tennessee	.014692
Texas	.046226
Utah	.005329
Vermont	.004965
Virginia	.020698
Washington	.017588
West Virginia	.015766
Wisconsin	.027342
Wyoming	.004965
American Samoa	.000908
Guam	.000657
Northern Marianas	.000422
Puerto Rico	.013191
Pacific Trust Territories	.001295
Virgin Islands	.000527".

(b) COSTS OF ADMINISTRATION.—Section 205(g)(1) is amended by striking out "October 1, 1985" and inserting in lieu thereof "October 1, 1994".

(c) CONTROL OF POLLUTANTS FROM STORM SEWERS.—Section 211(e) is amended by striking out "1985," and inserting in lieu thereof "1990,".

SEC. 207. RURAL SET ASIDE, INNOVATIVE AND ALTERNATIVE PROJECTS, AND NONPOINT SOURCE PROGRAMS.

(a) Section 205(h) is amended by inserting after "October 1, 1978" the following: "and ending before October 1, 1987".

(b) Section 205(i) is amended by inserting after "beginning after September 30, 1981" the following: "and ending before October 1, 1987".

(c) Section 205 is amended by adding at the end thereof the following:

"(1) The Administrator is authorized to reserve for any fiscal year beginning on or after October 1, 1987 and ending before October 1, 1991, at the request of the Governor, a portion of the sum allotted and available for obligation to each State under this section, not to exceed 3.50 per centum for the fiscal year ending September 30, 1988; 5.32 per centum for the fiscal year ending September 30, 1989; 6.25 per centum for the fiscal year ending September 30, 1990; and 10.83 per centum for the fiscal year ending September 30, 1991. Sums so reserved shall be available for making grants to the States for nonpoint source management programs and groundwater quality protection activities under section 319 of this Act. Sums so reserved shall be available for making such grants for the same period as sums are available from State allotments under subsection (d) of this section, and any such grant shall be available for obligation only during such period. Any grant made from sums reserved under this subsection which has not been obligated by the end of the period for which available shall be added to the amount last allotted to such State under this section and shall be immediately available for obligation in the same manner and to the same extent as such last allotment.".

SEC. 208. REGIONAL ORGANIZATION FUNDING.

Section 205(j)(3) is amended by adding at the end thereof the following: "In giving such priority, the State shall allocate at least 40 percent of the amount granted to such State for a fiscal year under paragraph (2) of this subsection to regional public comprehensive planning organizations in such State and appropriate interstate organizations for the development and implementation of the plan described in this paragraph. In any fiscal year for which the Governor, in consultation with such organizations and with the approval of the Administrator, determines that allocation of at least 40 percent of such amount to such organizations will not result in significant participation by such organizations in water quality management planning and not significantly assist in development and implementation of the plan described in this paragraph and achieving the goals of this Act, the allocation to such organization may be less than 40 percent of such amount.".

SEC. 209. AUTHORIZATIONS FOR CONSTRUCTION GRANTS.

Section 207 is amended by striking out the period at the end thereof and inserting in lieu thereof the following: "; and for the fiscal year ending September 30, 1986, not to exceed $1,800,000,000; for the fiscal year ending September 30, 1987 and for the fiscal year ending September 30, 1988, not to exceed $2,000,000,000; for the fiscal year ending September 30, 1989, not to exceed

$1,900,000,000; for the fiscal year ending September 30, 1990, not to exceed $1,600,000,000; for the fiscal year ending September 30, 1991, not to exceed $1,200,000,000; for the fiscal year ending September 30, 1992, not to exceed $1,000,000,000; and for the fiscal year ending September 30, 1993, not to exceed $500,000,000."

SEC. 210. GRANTS TO STATES FOR MAKING WATER POLLUTION CONTROL LOANS.

Title II is amended by adding at the end thereof the following new sections:

"SEC. 220. GRANTS TO STATES FOR MAKING WATER POLLUTION CONTROL LOANS.

"(a) GENERAL AUTHORITY.—Subject to the provisions of this title, the Administrator may make grants under this section to each State from the sums allotted to such State under section 205, for the purpose of (1) providing loans for construction of treatment works (as defined in section 212 of this Act) which are publicly owned, (2) implementing a management program under section 319, and (3) developing and implementing a conservation and management plan under section 320.

"(b) SCHEDULE OF GRANT PAYMENTS.—The Administrator and each State shall jointly establish a schedule of payments under which the Administrator will pay to the State the amount of each grant to be made to the State under this section. Such schedule shall be based on the State's intended use plan under section 223(c). Such schedule shall provide for payments no more frequent than once per quarter year, in amounts and over periods that result in an outlay rate that approximates the rate for payments made under section 201(g)(1) grants, as determined by the Administrator. The average outlay rate for State grant payments under this section shall not exceed the average outlay rate for section 201(g)(1) grant payments.

"(c) GRANT AGREEMENTS.—

"(1) GENERAL RULE.—To receive a grant with funds made available under this section, a State shall enter into an agreement with the Administrator.

"(2) SPECIFIC REQUIREMENTS.—Any agreement entered into by the Administrator under this section shall include, but not be limited to, the provisions listed below, and, in addition, such agreement may be entered into only after the State has established to the satisfaction of the Administrator that—

"(A) the State will accept grant payments with funds to be made available under this section in accordance with a payment schedule established jointly by the Administrator and the State under subsection (b);

"(B) the State will make available from State moneys an amount equal to at least 20 percent of each grant payment made under this section on or before the date on which each such payment will be made to the State;

"(C) the State will enter into binding commitments to provide assistance in accordance with the requirements of this section in an amount equal to 120 percent of the amount of each such grant payment within 1 year after the receipt of such grant payment;

"(D) all funds resulting from grants under this section, i.e. grant funds, matching funds, and loan repayment funds, will be expended in an expeditious and timely manner;

"(E) all such funds resulting from grants under this section will first be used to assure maintenance of progress, as determined by the Governor of the State, toward compliance with enforceable deadlines, goals, and requirements of this Act, including the municipal compliance deadline, in accordance with section 201(g)(1);

"(F) treatment works eligible under sections 201(g)(1) and 221(c) which will be constructed in whole or in part before fiscal year 1995 with funds from grants under this section will meet the requirements of sections 201(b), 201(g)(1), 201(g)(2), 201(g)(3), 201(g)(5), 201(g)(6), 201(n), 204(a)(1), 204(a)(2), 204(b)(1), 204(d)(2), 211, 218, and 511(c)(1) in the same manner as treatment works constructed with assistance under section 201(g)(1) other than by loans;

"(G) in addition to complying with the requirements of this title, the State will commit or expend each grant payment which it will receive under this title in accordance with laws and procedures applicable to the commitment or expenditure of revenues of the State;

"(H) in carrying out the requirements of section 223, the State will use accounting, audit, and fiscal procedures conforming to generally accepted government accounting standards;

"(I) the State will require as a condition of making loans from grants under this section that the recipients of such assistance will maintain project accounts in accordance with generally accepted government accounting standards; and

"(J) the State will make annual reports to the Administrator on the actual use of funds in accordance with section 223 of this title.

"(d) APPLICABILITY OF TITLE II PROVISIONS.—Except to the extent explicitly provided in this section and sections 221 and 223, other provisions of title II shall not apply to grants made under this section.".

"SEC. 221. WATER POLLUTION CONTROL LOANS.

"(a) REQUIREMENTS FOR OBLIGATION OF GRANT FUNDS.—Before a State may receive a grant under section 220 with funds made available under this title, the State shall first certify that it will comply with the requirements of this section.

"(b) ADMINISTRATION.—Grant funds received under section 220 shall be administered by the State to satisfy the requirements and objectives of this Act.

"(c) PROJECTS ELIGIBLE FOR ASSISTANCE.—The Administrator is authorized to make grants under section 220 to States (1) for the provision of loans to municipalities or intermunicipal or interstate agencies for the construction of publicly owned treatment works for the eligible costs defined in 201(g)(1) and once such deadlines, goals and requirements have been addressed, loans may then be made for any projects within the definition of section 212 of this Act, (2) for the implementation of a management program established under section 319, and (3) for development and implementation of a conservation and management plan under section 320. The State shall make repayments from loans available in perpetuity for providing such financial assistance.

"(d) TYPES OF ASSISTANCE.—A water pollution control grant to a State under this section may be used only—

"(1) to make loans, on the condition that—

"(A) such loans are made at or below market interest rates, including interest free loans, at terms not to exceed 20 years;

"(B) annual principal and interest payments will commence not later than 1 year after completion of any project and all loans will be fully amortized not later than 20 years after project completion;

"(C) the recipient of a loan will establish a dedicated source of revenue for repayment of loans;

"(D) the State will be credited with all payments of principal and interest on all loans; and

"(E) the State ensures that the total amount loaned from any fiscal year authorization shall not exceed, in the aggregate, the total amount that the projects funded would otherwise have received from Federal grants under section 201(g)(1).

"(2) to buy or refinance the debt obligation of municipalities and intermunicipal and interstate agencies within the State at or below market rates, where such debt obligations were incurred after March 1985;

"(3) as a source of revenue or security for the payment of principal or interest on revenue or general obligation bonds insured by the State if the proceeds of the sale of such bonds will be used to make loans.

"(e) LIMITATION TO PREVENT DOUBLE BENEFITS.—If a State makes, from its grant under section 220, a loan which will finance the cost of facility planning and the preparation of plans, specifications, and estimates for construction of publicly owned treatment works, the State shall ensure that if the recipient of such loan receives a grant under section 201(g) for construction of such treatment works and an allowance under section 201(l)(1) for non-Federal funds expended for such planning and preparation, such recipient will promptly repay such loan to the extent of such allowance.

"(f) CONSISTENCY WITH PLANNING REQUIREMENTS.—A State may provide financial assistance from funds resulting from its grant under section 220 only with respect to a project which is consistent with plans, if any, developed under sections 205(j), 208, 303(e), 319, and 320 of this Act.

"(g) PRIORITY LIST REQUIREMENT.—The State may provide financial assistance from funds resulting from its grants under section 220 only for projects on the State's priority list under section 216 of this Act. Such assistance may be provided regardless of the rank of such projects on such list.

"SEC. 222. CORRECTIVE ACTION.

"(a) NOTIFICATION OF NONCOMPLIANCE.—If the Administrator determines that a State has not complied with its agreement with the Administrator under section 220 or any other requirement of this title, the Administrator shall notify the State of such noncompliance and the necessary corrective action.

"(b) WITHHOLDING OF PAYMENTS.—If a State does not take corrective action within 60 days after the date a State receives notification of such action under subsection (a), the Administrator shall withhold additional payments to the State until the Administrator is satisfied that the State has taken the necessary corrective action.

"(c) REALLOTMENT OF WITHHELD PAYMENTS.—If the Administrator is not satisfied that adequate corrective actions have been taken by the State within 12 months after the State is notified of such actions under subsection (a), the payments withheld from the State by the Administrator under subsection (b) shall be made available for reallotment in accordance with the formula for allotment of funds under this title in effect at the time of such reallotment.

"SEC. 223. AUDITS, REPORTS, AND FISCAL CONTROLS; INTENDED USE PLAN.

"(a) FISCAL CONTROL AND AUDITING PROCEDURES.—Each State accepting a grant under section 220 shall establish fiscal controls

and accounting procedures sufficient to assure proper accounting during appropriate accounting periods for such grants:

"(1) payments received;

"(2) disbursements made; and

"(3) balances at the beginning and end of the accounting period.

"(b) ANNUAL FEDERAL AUDITS.—The Administrator shall, at least on an annual basis, conduct or require each State to have independently conducted reviews and audits of grant funds received under section 220 as may be deemed necessary or appropriate by the Administrator to carry out the objectives of this section. Audits of the use of funds shall be conducted in accordance with the auditing procedures of the General Accounting Office, including chapter 75 of title 31, United States Code.

"(c) INTENDED USE PLAN.—After providing for public comment and review for each fiscal year that the State expends grant funds under section 220, the State shall prepare a plan identifying the intended use of the grant amounts available. Such intended use plan shall include, but not be limited to—

"(1) a list of those projects for construction of publicly owned treatment works on the State's priority list developed pursuant to section 216 of this Act and a list of activities eligible for assistance under sections 319 and 320 of this Act;

"(2) a description of the State's short- and long-term water pollution control goals and objectives;

"(3) information on the activities to be supported, including a description of project categories, discharge requirements under titles III and IV of this Act, terms of financial assistance, and communities served;

"(4) assurances and specific proposals for meeting the requirements of paragraphs (C), (D), (E), and (F) of section 220(c)(2) of this title; and

"(5) the criteria and method established for the distribution of funds.

"(d) ANNUAL REPORT.—For each fiscal year that the State expends grant funds under section 220, the State shall provide an annual report to the Administrator describing how the State has met the goals and objectives for the previous fiscal year as identified in the plan prepared for the previous fiscal year pursuant to subsection (c), including identification of loan recipients, loan amounts, and loan terms.

"(e) ANNUAL FEDERAL OVERSIGHT REVIEW.—The Administrator shall conduct an annual oversight review of each State plan prepared under subsection (c), each State report prepared under subsection (d), and other such materials as are considered necessary and appropriate in carrying out the purposes of this title. After reasonable notice by the Administrator to the State or the recipient of a loan, the State or loan recipient shall make available to the Administrator such records as the Administrator reasonably requires to review and determine compliance with this title.".

SEC. 211. AD VALOREM TAX DEDICATION.

For the purposes of complying with section 204(b)(1) of the Federal Water Pollution Control Act, the ad valorem tax user charge systems of the town of Hampton and the city of Nashua, New Hampshire, shall be deemed to have been dedicated as of December 27, 1977. The Administrator shall review such ad valorem tax user charge systems for compliance with the remaining requirements of such section and related regulations of the Environmental Protection Agency.

SECTION 212. IMPROVEMENT PROJECTS.

(a) AVALON, CALIFORNIA.—The Administrator shall make a grant of $3,000,000 from funds allotted under section 205 of the Federal Water Pollution Control Act to the State of California for fiscal year 1987 to the city of Avalon, California, for improvements to the publicly owned treatment works of such city.

(b) WALKER AND SMITHFIELD TOWNSHIPS, PENNSYLVANIA.—Out of funds available for grants in the State of Pennsylvania under the third sentence of section 201(g)(1) of the Federal Water Pollution Control Act in fiscal year 1987, the Administrator shall make grants—

(1) to Walker Township, Pennsylvania, for developing a collector system and connecting its wastewater treatment system into the Huntington Borough, Pennsylvania, sewage treatment plant, and

(2) to Smithfield Township, Pennsylvania, for rehabilitating and extending its collector system.

(c) TAYLOR MILL, KENTUCKY.—Notwithstanding section 201(g)(1) of the Federal Water Pollution Control Act or any other provision of law, the Administrator shall make a grant of $250,000 from funds allotted under section 205 of such Act to the State of Kentucky for fiscal year 1986 to the city of Taylor Mill, Kentucky, for the repair and reconstruction, as necessary, of the publicly owned treatment works of such city.

(d) NEVADA COUNTY, CALIFORNIA.—Out of funds available for grants in the State of California under the third sentence of section 201(g)(1) of the Federal Water Pollution Control Act in fiscal year 1987, the Administrator shall make a grant for the construction of a collection system serving the Glenshire/Devonshire area of Nevada County, California, to deliver waste to the Tahoe-Truckee Sanitary District's regional wastewater treatment facility.

(e) TREATMENT WORKS FOR WANAQUE, NEW JERSEY.—In fiscal year 1987 and succeeding fiscal years, the Administrator shall make grants to the Wanaque Valley Regional Sewerage Authority, New Jersey, from funds allotted under section 205 of the Federal Water Pollution Control Act to the State of New Jersey for such fiscal year, for the construction of treatment works with a total treatment capacity of 1,050,000 gallons per day (including a treatment module with a treatment capacity of 350,000 gallons per day). Notwithstanding section 202 of such Act, the Federal share of the cost of construction of such treatment works shall be 75 percent.

(f) TREATMENT WORKS FOR LENA, ILLINOIS.—The Administrator shall make grants to the village of Lena, Illinois, from funds allotted under section 205 of the Federal Water Pollution Control Act to the State of Illinois for fiscal years beginning after September 30, 1986, for the construction of a replacement moving bed filter press for the treatment works of such village. Notwithstanding section 202 of the Federal Water Pollution Control Act, the Federal share of the cost of construction of such project shall be 75 percent.

(g) PRIORITY FOR COURT-ORDERED AND OTHER PROJECTS.—The State of Pennsylvania, from funds allotted to it under section 205 of the Federal Water Pollution Control Act, shall give priority for construction of—

(1) the Wyoming Valley Sanitary Authority Secondary Treatment project mandated under Federal court order, regardless of the date of start of construction made pursuant to the court order; and

(2) a project for wastewater treatment for Altoona, Pennsylvania.

SECTION 213. CHICAGO TUNNEL AND RESERVOIR PROJECT.

The Chicago tunnel and reservoir project may receive grants under the last sentence of section 201(g)(1) of the Federal Water Pollution Control Act without regard to the limitation contained in such sentence if the Administrator determines that such project meets the cost-effectiveness requirements of section 217 and 218 of such Act without any redesign or reconstruction and if the Governor of the affected State demonstrates to the satisfaction of the Administrator the water quality benefits of such project.

TITLE III—STANDARDS AND ENFORCEMENTS

SEC. 301. COMPLIANCE DATES.

(a) PRIORITY TOXIC POLLUTANTS.—Section 301(b)(2)(C) is amended by striking out "not later than July 1, 1984," and inserting after "of this paragraph" the following: "as expeditiously as practicable but in no case later than three years after the date such limitations are promulgated under section 304(b), and in no case later than March 31, 1989".

(b) OTHER TOXIC POLLUTANTS.—Section 301(b)(2)(D) is amended by striking out "not later than three years after the date such limitations are established" and inserting in lieu thereof "as expeditiously as practicable, but in no case later than three years after the date such limitations are promulgated under section 304(b), and in no case later than March 31, 1989".

(c) CONVENTIONAL POLLUTANTS.—Section 301(b)(2)(E) is amended by striking "not later than July 1, 1984," and inserting in lieu thereof "as expeditiously as practicable but in no case later than three years after the date such limitations are promulgated under section 304(b), and in no case later than March 31, 1989, compliance with".

(d) OTHER POLLUTANTS.—Section 301(b)(2)(F) is amended by striking "not" after "subparagraph (A) of this paragraph" and inserting in lieu thereof "as expeditiously as practicable but in no case", and by striking "or not later than July 1, 1984," and all that follows through the end of the sentence and inserting in lieu thereof "and in no case later than March 31, 1989.".

(e) STRICTER BPT.—Section 301(b) is amended by adding at the end the following new paragraph:

"(3)(A) for effluent limitations under paragraph (1)(A)(i) of this subsection promulgated after January 1, 1982, and requiring a level of control substantially greater or based on fundamentally different control technology than under permits for an industrial category issued before such date, compliance as expeditiously as practicable but in no case later than three years after the date such limitations are promulgated under section 304(b), and in no case later than March 31, 1989; and

"(B) for any effluent limitation in accordance with paragraph (1)(A)(i), (2)(A)(i), or (2)(E) of this subsection established only on the basis of section 402(a)(1) in a permit issued after enactment of the Water Quality Act of 1987, compliance as expeditiously as practicable but in no case later than three years after the date such limitations are established, and in no case later than March 31, 1989.".

(f) DEADLINES FOR REGULATIONS FOR CERTAIN TOXIC POLLUTANTS.—The Administrator shall promulgate final regulations establishing effluent limitations in accordance with sections 301(b)(2)(A) and 307(b)(1) of

the Federal Water Pollution Control Act for all toxic pollutants referred to in table 1 of Committee Print Numbered 95-30 of the Committee on Public Works and Transportation of the House of Representatives which are discharged from the categories of point sources in accordance with the following table:

Category	Date by which the final regulation shall be promulgated
Organic chemicals and plastics and synthetic fibers.	December 31, 1986.
Pesticides	December 31, 1986.

SEC. 302. MODIFICATION FOR NONCONVENTIONAL POLLUTANTS.

(a) LISTING OF POLLUTANTS.—Section 301(g) is amended by redesignating paragraph (2) (and any references thereto) as paragraph (3) and by striking out all that precedes subparagraph (A) of paragraph (1) and inserting in lieu thereof the following:

"(g) MODIFICATIONS FOR CERTAIN NONCONVENTIONAL POLLUTANTS.—

"(1) GENERAL AUTHORITY.—The Administrator, with the concurrence of the State, may modify the requirements of subsection (b)(2)(A) of this section with respect to the discharge from any point source of ammonia, chlorine, color, iron, and total phenols (4AAP) (when determined by the Administrator to be a pollutant covered by subsection (b)(2)(F)) and any other pollutant which the Administrator lists under paragraph (4) of this subsection.

"(2) REQUIREMENTS FOR GRANTING MODIFICATIONS.—A modification under this subsection shall be granted only upon a showing by the owner or operator of a point source satisfactory to the Administrator that—".

(b) PROCEDURE FOR LISTING ADDITIONAL POLLUTANTS; REMOVAL.—Section 301(g) is further amended by adding at the end thereof the following new paragraphs:

"(4) PROCEDURES FOR LISTING ADDITIONAL POLLUTANTS.—

"(A) GENERAL AUTHORITY.—Upon petition of any person, the Administrator may add any pollutant to the list of pollutants for which modification under this section is authorized (except for pollutants identified pursuant to section 304(a)(4) of this Act, toxic pollutants subject to section 307(a) of this Act, and the thermal component of discharges) in accordance with the provisions of this paragraph.

"(B) REQUIREMENTS FOR LISTING.—

"(i) SUFFICIENT INFORMATION.—The person petitioning for listing of an additional pollutant under this subsection shall submit to the Administrator sufficient information to make the determinations required by this subparagraph.

"(ii) TOXIC CRITERIA DETERMINATION.—The Administrator shall determine whether or not the pollutant meets the criteria for listing as a toxic pollutant under section 307(a) of this Act.

"(iii) LISTING AS TOXIC POLLUTANT.—If the Administrator determines that the pollutant meets the criteria for listing as a toxic pollutant under section 307(a), the Administrator shall list the pollutant as a toxic pollutant under section 307(a).

"(iv) NONCONVENTIONAL CRITERIA DETERMINATION.—If the Administrator determines that the pollutant does not meet the criteria for listing as a toxic pollutant under such section and determines that adequate test methods and sufficient data are available to make the determinations required by paragraph (2) of this subsection with respect to the pollutant, the Administrator shall add the pollutant to the list of pollutants specified in paragraph (1) of this subsection for which modifications are authorized under this subsection.

"(C) REQUIREMENTS FOR FILING OF PETITIONS.—A petition for listing of a pollutant under this paragraph—

"(i) must be filed not later than 270 days after the date of promulgation of an applicable effluent guideline under section 304;

"(ii) may be filed before promulgation of such guideline; and

"(iii) may be filed with an application for a modification under paragraph (1) with respect to the discharge of such pollutant.

"(D) DEADLINE FOR APPROVAL OF PETITION.—A decision to add a pollutant to the list of pollutants for which modifications under this subsection are authorized must be made within 270 days after the date of promulgation of an applicable effluent guideline under section 304.

"(E) BURDEN OF PROOF.—The burden of proof for making the determinations under subparagraph (B) shall be on the petitioner.

"(5) REMOVAL OF POLLUTANTS.—The Administrator may remove any pollutant from the list of pollutants for which modifications are authorized under this subsection if the Administrator determines that adequate test methods and sufficient data are no longer available for determining whether or not modifications may be granted with respect to such pollutant under paragraph (2) of this subsection.".

(c) DEADLINE FOR APPROVAL OF MODIFICATIONS.—Section 301(j) is amended—

(1) in paragraph (2) by striking out "Any" and inserting in lieu thereof "Subject to paragraph (3) of this section, any"; and

(2) by adding at the end thereof the following new paragraphs:

"(3) COMPLIANCE REQUIREMENTS UNDER SUBSECTION (g).—

"(A) EFFECT OF FILING.—An application for a modification under subsection (g) and a petition for listing of a pollutant as a pollutant for which modifications are authorized under such subsection shall not stay the requirement that the person seeking such modification or listing comply with effluent limitations under this Act for all pollutants not the subject of such application or petition.

"(B) EFFECT OF DISAPPROVAL.—Disapproval of an application for a modification under subsection (g) shall not stay the requirement that the person seeking such modification comply with all applicable effluent limitations under this Act.

"(4) DEADLINE FOR SUBSECTION (g) DECISION.—An application for a modification with respect to a pollutant filed under subsection (g) must be approved or disapproved not later than 365 days after the date of such filing; except that in any case in which a petition for listing such pollutant as a pollutant for which modifications are authorized under such subsection is approved, such application must be approved or disapproved not later than 365 days after the date of approval of such petition.".

(d) CONFORMING AMENDMENTS.—(1) Paragraph (3) of section 301(g), as redesignated by subsection (a) of this section, is amended by inserting "LIMITATION ON AUTHORITY TO APPLY FOR SUBSECTION (c) MODIFICATION.—" before "If an owner" and by aligning such paragraph with paragraph (4) of such section, as added by such subsection (c).

(2) Paragraph (2) of section 301(g) (as designated by subsection (a) of this section) is amended by realigning subparagraphs (A), (B), and (C) with subparagraph (A) of paragraph (4), as added by subsection (b) of this section.

(e) APPLICATION.—

(1) GENERAL RULE.—Except as provided in paragraph (2), the amendments made by this section shall apply to all requests for modifications under section 301(g) of the Federal Water Pollution Control Act pending on the date of the enactment of this Act and shall not have the effect of extending the deadline established in section 301(j)(1)(B) of such Act.

(2) EXCEPTION.—The amendments made by this section shall not affect any application for a modification with respect to the discharge of ammonia, chlorine, color, iron, or total phenols (4AAP) under section 301(g) of the Federal Water Pollution Control Act pending on the date of the enactment of this Act; except that the Administrator must approve or disapprove such application not later than 365 days after the date of such enactment.

SEC. 303. DISCHARGES INTO MARINE WATERS.

(a) CONSIDERATION OF OTHER SOURCES OF POLLUTANTS.—Section 301(h)(2) is amended by striking out "such modified requirements will not interfere" and inserting in lieu thereof the following: "the discharge of pollutants in accordance with such modified requirements will not interfere, alone or in combination with pollutants from other sources,".

(b) LIMITATION ON SCOPE OF MONITORING.—

(1) GENERAL RULE.—Section 301(h)(3) is amended by inserting before the semicolon at the end thereof the following: ", and the scope of such monitoring is limited to include only those scientific investigations which are necessary to study the effects of the proposed discharge".

(2) LIMITATION ON APPLICABILITY.—The amendment made by subsection (b) shall only apply to modifications and renewals of modifications which are tentatively or finally approved after the date of the enactment of this Act.

(c) URBAN AREA PRETREATMENT PROGRAM.—Section 301(h) is amended by redesignating paragraphs (6) and (7), and any references thereto, as paragraphs (7) and (8), respectively, and by inserting after paragraph (5) the following new paragraph:

"(6) in the case of any treatment works serving a population of 50,000 or more, with respect to any toxic pollutant introduced into such works by an industrial discharger for which pollutant there is no applicable pretreatment requirement in effect, sources introducing waste into such works are in compliance with all applicable pretreatment requirements, the applicant will enforce such requirements, and the applicant has in effect a pretreatment program which, in combination with the treatment of discharges from such works, removes the same amount of such pollutant as would be removed if such works were to apply secondary treatment to discharges and if such works had no pretreatment program with respect to such pollutant;".

(d) PRIMARY TREATMENT FOR EFFLUENT.—

(1) GENERAL RULE.—Section 301(h) is amended by striking out the period at the end of paragraph (8) (as redesignated by subsection (c) of this section) and inserting in lieu thereof a semicolon and by inserting after such paragraph (8) the following new paragraph:

"(9) the applicant at the time such modification becomes effective will be discharging

effluent which has received at least primary or equivalent treatment and which meets the criteria established under section 304(a)(1) of this Act after initial mixing in the waters surrounding or adjacent to the point at which such effluent is discharged.".

(2) PRIMARY OR EQUIVALENT TREATMENT DEFINED.—Such section is further amended by inserting after the second sentence the following new sentence: "For the purposes of paragraph (9), 'primary or equivalent treatment' means treatment by screening, sedimentation, and skimming adequate to remove at least 30 percent of the biological oxygen demanding material and of the suspended solids in the treatment works influent, and disinfection, where appropriate.".

(e) LIMITATIONS ON ISSUANCE OF PERMITS.—Section 301(h) is further amended by adding at the end thereof the following new sentences: "In order for a permit to be issued under this subsection for the discharge of a pollutant into marine waters, such marine waters must exhibit characteristics assuring that water providing dilution does not contain significant amounts of previously discharged effluent from such treatment works. No permit issued under this subsection shall authorize the discharge of any pollutant into saline estuarine waters which at the time of application do not support a balanced indigenous population of shellfish, fish and wildlife, or allow recreation in and on the waters or which exhibit ambient water quality below applicable water quality standards adopted for the protection of public water supplies, shellfish, fish and wildlife or recreational activities or such other standards necessary to assure support and protection of such uses. The prohibition contained in the preceding sentence shall apply without regard to the presence or absence of a causal relationship between such characteristics and the applicant's current or proposed discharge. Notwithstanding any other provisions of this subsection, no permit may be issued under this subsection for discharge of a pollutant into the New York Bight Apex consisting of the ocean waters of the Atlantic Ocean westward of 73 degrees 30 minutes west longitude and northward of 40 degrees 10 minutes north latitude.".

(f) APPLICATION FOR OCEAN DISCHARGE MODIFICATION.—Section 301(j)(1)(A) is amended by inserting before the semicolon at the end thereof the following: ", except that a publicly owned treatment works which prior to December 31, 1982, had a contractual arrangement to use a portion of the capacity of an ocean outfall operated by another publicly owned treatment works which has applied for or received modification under subsection (h), may apply for a modification of subsection (h) in its own right not later than 30 days after the date of the enactment of the Water Quality Act of 1987".

(g) GRANDFATHER OF CERTAIN APPLICANTS.—The amendments made by subsections (a), (c), (d), and (e) of this section shall not apply to an application for a permit under section 301(h) of the Federal Water Pollution Control Act which has been tentatively or finally approved by the Administrator before the date of the enactment of this Act; except that such amendments shall apply to all renewals of such permits after such date of enactment.

SEC. 304. FILING DEADLINE FOR TREATMENT WORKS MODIFICATION.

(a) EXTENSION.—The second sentence of section 301(i)(1) is amended by striking out "of this subsection." and inserting in lieu thereof "of the Water Quality Act of 1987.".

(b) APPLICABILITY.—The amendment made by subsection (a) shall not apply to those treatment works which are subject to a compliance schedule established before the date of the enactment of this Act by a court order or a final administrative order.

SEC. 305. INNOVATIVE TECHNOLOGY COMPLIANCE DEADLINES FOR DIRECT DISCHARGERS.

(a) EXTENSION OF DEADLINE.—Section 301(k) is amended by striking out "July 1, 1987," and inserting in lieu thereof "two years after the date for compliance with such effluent limitation which would otherwise be applicable under such subsection,".

(b) EXTENSION TO CONVENTIONAL POLLUTANTS.—Section 301(k) is amended by inserting "or (b)(2)(E)" after "(b)(2)(A)" each place it appears.

SEC. 306. FUNDAMENTALLY DIFFERENT FACTORS.

(a) GENERAL RULE.—Section 301 is amended by adding at the end the following new subsections:

"(n) FUNDAMENTALLY DIFFERENT FACTORS.—

"(1) GENERAL RULE.—The Administrator, with the concurrence of the State, may establish an alternative requirement under subsection (b)(2) or section 307(b) for a facility that modifies the requirements of national effluent limitation guidelines or categorical pretreatment standards that would otherwise be applicable to such facility, if the owner or operator of such facility demonstrates to the satisfaction of the Administrator that—

"(A) the facility is fundamentally different with respect to the factors (other than cost) specified in section 304(b) or 304(g) and considered by the Administrator in establishing such national effluent limitation guidelines or categorical pretreatment standards;

"(B) the application—

"(i) is based solely on information and supporting data submitted to the Administrator during the rulemaking for establishment of the applicable national effluent limitation guidelines or categorical pretreatment standard specifically raising the factors that are fundamentally different for such facility; or

"(ii) is based on information and supporting data referred to in clause (i) and information and supporting data the applicant did not have a reasonable opportunity to submit during such rulemaking;

"(C) the alternative requirement is no less stringent than justified by the fundamental difference; and

"(D) the alternative requirement will not result in a non-water quality environmental impact which is markedly more adverse than the impact considered by the Administrator in establishing such national effluent limitation guideline or categorical pretreatment standard.

"(2) TIME LIMIT FOR APPLICATIONS.—An application for an alternative requirement which modifies the requirements of an effluent limitation or pretreatment standard under this subsection must be submitted to the Administrator within 180 days after the date on which such limitation or standard is established or revised, as the case may be.

"(3) TIME LIMIT FOR DECISION.—The Administrator shall approve or deny by final agency action an application submitted under this subsection within 180 days after the date such application is filed with the Administrator.

"(4) SUBMISSION OF INFORMATION.—The Administrator may allow an applicant under this subsection to submit information and supporting data until the earlier of the date the application is approved or denied or the last day that the Administrator has to approve or deny such application.

"(5) TREATMENT OF PENDING APPLICATIONS.—For the purposes of this subsection, an application for an alternative requirement based on fundamentally different factors which is pending on the date of the enactment of this subsection shall be treated as having been submitted to the Administrator on the 180th day following such date of enactment. The applicant may amend the application to take into account the provisions of this subsection.

"(6) EFFECT OF SUBMISSION OF APPLICATION.—An application for an alternative requirement under this subsection shall not stay the applicant's obligation to comply with the effluent limitation guideline or categorical pretreatment standard which is the subject of the application.

"(7) EFFECT OF DENIAL.—If an application for an alternative requirement which modifies the requirements of an effluent limitation or pretreatment standard under this subsection is denied by the Administrator, the applicant must comply with such limitation or standard as established or revised, as the case may be.

"(8) REPORTS.—Every 6 months after the date of the enactment of this subsection, the Administrator shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives a report on the status of applications for alternative requirements which modify the requirements of effluent limitations under section 301 or 304 of this Act or any national categorical pretreatment standard under section 307(b) of this Act filed before, on, or after such date of enactment.

"(o) APPLICATION FEES.—The Administrator shall prescribe and collect from each applicant fees reflecting the reasonable administrative costs incurred in reviewing and processing applications for modifications submitted to the Administrator pursuant to subsections (c), (g), (i), (k), (m), and (n) of section 301, section 304(d)(4), and section 316(a) of this Act. All amounts collected by the Administrator under this subsection shall be deposited into a special fund of the Treasury entitled 'Water Permits and Related Services' which shall thereafter be available for appropriation to carry out activities of the Environmental Protection Agency for which such fees were collected.".

(b) CONFORMING AMENDMENT.—Section 301(l) is amended by striking out "The" and inserting in lieu thereof "Other than as provided in subsection (n) of this section, the".

(c) PHOSPHATE FERTILIZER EFFLUENT LIMITATION.—

(1) LIMITATION ON APPLICABILITY.—The effluent limitation established by the Administrator pursuant to section 301(b) of the Federal Water Pollution Control Act for the phosphate subcategory of the fertilizer manufacturing point source category shall not apply to facilities which had commenced construction on or before April 8, 1974, and for which the Administrator is proposing to revise the applicability of such limitations to exclude such facilities.

(2) ISSUANCE OF PERMIT.—As soon as possible after the date of the enactment of this Act, but not later than 180 days after such date of enactment, the Administrator shall

issue permits under section 402(a)(1)(B) of the Federal Water Pollution Control Act with respect to the facilities described in paragraph (1). Such permits shall remain in effect until, after such date of enactment, issuance of a permit under effluent guidelines applicable to discharges for the phosphate subcategory.

SEC. 307. COAL REMINING OPERATIONS.

Section 301 is amended by adding at the end thereof the following:

"(p) MODIFIED PERMIT FOR COAL REMINING OPERATIONS.—

"(1) IN GENERAL.—Subject to paragraphs (2) through (4) of this subsection, the Administrator, or the State in any case which the State has an approved permit program under section 402(b), may issue a permit under section 402 which modifies the requirements of subsection (b)(2)(A) of this section with respect to the pH level of any pre-existing discharge, and with respect to pre-existing discharges of iron and manganese from the remined area of any coal remining operation or with respect to the pH level or level of iron or manganese in any pre-existing discharge affected by the remining operation. Such modified requirements shall apply the best available technology economically achievable on a case-by-case basis, using best professional judgment, to set specific numerical effluent limitations in each permit.

"(2) LIMITATIONS.—The Administrator or the State may only issue a permit pursuant to paragraph (1) if the applicant demonstrates to the satisfaction of the Administrator or the State, as the case may be, that the coal remining operation will result in the potential for improved water quality from the remining operation but in no event shall such a permit allow the pH level of any discharge, and in no event shall such a permit allow the discharges of iron and manganese, to exceed the levels being discharged from the remined area before the coal remining operation begins. No discharge from, or affected by, the remining operation shall exceed State water quality standards established under section 303 of this Act.

"(3) DEFINITIONS.—For purposes of this subsection—

"(A) COAL REMINING OPERATION.—The term 'coal remining operation' means a coal mining operation which begins after the date of the enactment of this subsection at a site on which coal mining was conducted before the effective date of the Surface Mining Control and Reclamation Act of 1977.

"(B) REMINED AREA.—The term 'remined area' means only that area of any coal remining operation on which coal mining was conducted before the effective date of the Surface Mining Control and Reclamation Act of 1977.

"(C) PRE-EXISTING DISCHARGE.—The term 'pre-existing discharge' means any discharge at the time of permit application under this subsection.

"(4) APPLICABILITY OF STRIP MINING LAWS.—Nothing in this subsection shall affect the application of the Surface Mining Control and Reclamation Act of 1977 to any coal remining operation, including the application of such Act to suspended solids.".

SEC. 308. INDIVIDUAL CONTROL STRATEGIES FOR TOXIC POLLUTANTS.

(a) IN GENERAL.—Section 304 is amended by adding at the end thereof the following new subsection:

"(l) INDIVIDUAL CONTROL STRATEGIES FOR TOXIC POLLUTANTS.—

"(1) STATE LIST OF NAVIGABLE WATERS AND DEVELOPMENT OF STRATEGIES.—Not later than 2 years after the date of the enactment of this subsection, each State shall submit to the Administrator for review, approval, and implementation under this subsection—

"(A) a list of those waters within the State which after the application of effluent limitations required under section 301(b)(2) of this Act cannot reasonably be anticipated to attain or maintain (i) water quality standards for such waters reviewed, revised, or adopted in accordance with section 303(c)(2)(B) of this Act, due to toxic pollutants, or (ii) that water quality which shall assure protection of public health, public water supplies, agricultural and industrial uses, and the protection and propagation of a balanced population of shellfish, fish and wildlife, and allow recreational activities in and on the water;

"(B) a list of all navigable waters in such State for which the State does not expect the applicable standard under section 303 of this Act will be achieved after the requirements of sections 301(b), 306, and 307(b) are met, due entirely or substantially to discharges from point sources of any toxic pollutants listed pursuant to section 307(a);

"(C) for each segment of the navigable waters included on such lists, a determination of the specific point sources discharging any such toxic pollutant which is believed to be preventing or impairing such water quality and the amount of each such toxic pollutant discharged by each such source; and

"(D) for each such segment, an individual control strategy which the State determines will produce a reduction in the discharge of toxic pollutants from point sources identified by the State under this paragraph through the establishment of effluent limitations under section 402 of this Act and water quality standards under section 303(c)(2)(B) of this Act, which reduction is sufficient, in combination with existing controls on point and nonpoint sources of pollution, to achieve the applicable water quality standard as soon as possible, but not later than 3 years after the date of the establishment of such strategy.

"(2) APPROVAL OR DISAPPROVAL.—Not later than 120 days after the last day of the 2-year period referred to in paragraph (1), the Administrator shall approve or disapprove the control strategies submitted under paragraph (1) by any State.

"(3) ADMINISTRATOR'S ACTION.—If a State fails to submit control strategies in accordance with paragraph (1) or the Administrator does not approve the control strategies submitted by such State in accordance with paragraph (1), then, not later than 1 year after the last day of the period referred to in paragraph (2), the Administrator, in cooperation with such State and after notice and opportunity for public comment, shall implement the requirements of paragraph (1) in such State. In the implementation of such requirements, the Administrator shall, at a minimum, consider for listing under this subsection any navigable waters for which any person submits a petition to the Administrator for listing not later than 120 days after such last day."

(b) JUDICIAL REVIEW.—Section 509(b)(1) is amended—

(1) by striking out "and (F)" and inserting in lieu thereof "(F)"; and

(2) by inserting after "any permit under section 402," the following: "and (G) in promulgating any individual control strategy under section 304(l),".

(c) GUIDANCE TO STATES; INFORMATION ON WATER QUALITY CRITERIA FOR TOXICS.—Section 304(a) is amended by adding at the end the following new paragraphs:

"(7) GUIDANCE TO STATES.—The Administrator, after consultation with appropriate State agencies and on the basis of criteria and information published under paragraphs (1) and (2) of this subsection, shall develop and publish, within 9 months after the date of the enactment of the Water Quality Act of 1987, guidance to the States on performing the identification required by section 304(l)(1) of this Act.

"(8) INFORMATION ON WATER QUALITY CRITERIA.—The Administrator, after consultation with appropriate State agencies and within 2 years after the date of the enactment of the Water Quality Act of 1987, shall develop and publish information on methods for establishing and measuring water quality criteria for toxic pollutants on other bases than pollutant-by-pollutant criteria, including biological monitoring and assessment methods.".

(d) WATER QUALITY CRITERIA FOR TOXIC POLLUTANTS.—Section 303(c)(2) is amended by inserting "(A)" after "(2)" and by adding the following new subparagraph:

"(B) Whenever a State reviews water quality standards pursuant to paragraph (1) of this subsection, or revises or adopts new standards pursuant to this paragraph, such State shall adopt criteria for all toxic pollutants listed pursuant to section 307(a)(1) of this Act for which criteria have been published under section 304(a), the discharge or presence of which in the affected waters could reasonably be expected to interfere with those designated uses adopted by the State, as necessary to support such designated uses. Such criteria shall be specific numerical criteria for such toxic pollutants. Where such numerical criteria are not available, whenever a State reviews water quality standards pursuant to paragraph (1), or revises or adopts new standards pursuant to this paragraph, such State shall adopt criteria based on biological monitoring or assessment methods consistent with information published pursuant to section 304(a)(8). Nothing in this section shall be construed to limit or delay the use of effluent limitations or other permit conditions based on or involving biological monitoring or assessment methods or previously adopted numerical criteria.".

(e) MODIFICATIONS OF EFFLUENT LIMITATIONS.—

(1) IN GENERAL.—Section 302(b) is amended to read as follows:

"(b) MODIFICATIONS OF EFFLUENT LIMITATIONS.—

"(1) NOTICE AND HEARING.—Prior to establishment of any effluent limitation pursuant to subsection (a) of this section, the Administrator shall publish such proposed limitation and within 90 days of such publication hold a public hearing.

"(2) PERMITS.—

"(A) NO REASONABLE RELATIONSHIP.—The Administrator, with the concurrence of the State, may issue a permit which modifies the effluent limitations required by subsection (a) of this section for pollutants other than toxic pollutants if the applicant demonstrates at such hearing that (whether or not technology or other alternative control strategies are available) there is no reasonable relationship between the economic and social costs and the benefits to be obtained (including attainment of the objective of this Act) from achieving such limitation.

"(B) REASONABLE PROGRESS.—The Administrator, with the concurrence of the State, may issue a permit which modifies the effluent limitations required by subsection (a) of this section for toxic pollutants for a single period not to exceed 5 years if the applicant demonstrates to the satisfaction of the Administrator that such modified requirements (i) will represent the maximum degree of control within the economic capability of the owner and operator of the source, and (ii) will result in reasonable further progress beyond the requirements of section 301(b)(2) toward the requirements of subsection (a) of this section.".

(2) CONFORMING AMENDMENTS.—Section 302(a) is amended—

(A) by inserting "or as identified under section 304(l)" after "in the judgment of the Administrator"; and

(B) by inserting "public health," after "protection of".

(f) SCHEDULE FOR REVIEW OF GUIDELINES.—Section 304 is amended by adding at the end the following new subsection:

"(m) SCHEDULE FOR REVIEW OF GUIDELINES.—

"(1) PUBLICATION.—Within 12 months after the date of the enactment of the Water Quality Act of 1987, and biennially thereafter, the Administrator shall publish in the Federal Register a plan which shall—

"(A) establish a schedule for the annual review and revision of promulgated effluent guidelines, in accordance with subsection (b) of this section;

"(B) identify categories of sources discharging toxic or nonconventional pollutants for which guidelines under subsection (b)(2) of this section and section 306 have not previously been published; and

"(C) establish a schedule for promulgation of effluent guidelines for categories identified in subparagraph (B), under which promulgation of such guidelines shall be no later than 4 years after such date of enactment for categories identified in the first published plan or 3 years after the publication of the plan for categories identified in later published plans.

"(2) PUBLIC REVIEW.—The Administrator shall provide for public review and comment on the plan prior to final publication.".

(g) WATER QUALITY IMPROVEMENT STUDY.—

(1) STUDY.—The Administrator shall study the water quality improvements which have been achieved by application of best available technology economically achievable pursuant to section 301(b)(2) of the Federal Water Pollution Control Act. Such study shall include, but not be limited to, an analysis of the effectiveness of the application of best available technology economically achievable pursuant to such section in attaining applicable water quality standards (including the standard specified in section 302(a) of such Act) and an analysis of the effectiveness of the water quality program under such Act and methods of improving such program, including site specific levels of treatment which will achieve the water quality goals of such Act.

(2) REPORT.—Not later than 2 years after the date of the enactment of this Act, the Administrator shall submit a report on the results of the study conducted under subsection (a) together with recommendations for improving the water quality program and its effectiveness to the Committee on Public Works and Transportation of the House of Representatives and the Committee on Environment and Public Works of the Senate.

SEC. 309. PRETREATMENT STANDARDS.

(a) EXTENSION OF COMPLIANCE DATE BY POTW.—Section 307 is amended by adding at the end the following:

"(e) COMPLIANCE DATE EXTENSION FOR INNOVATIVE PRETREATMENT SYSTEMS.—In the case of any existing facility that proposes to comply with the pretreatment standards of subsection (b) of this section by applying an innovative system that meets the requirements of section 301(k) of this Act, the owner or operator of the publicly owned treatment works receiving the treated effluent from such facility may extend the date for compliance with the applicable pretreatment standard established under this section for a period not to exceed 2 years—

"(1) if the Administrator determines that the innovative system has the potential for industrywide application, and

"(2) if the Administrator (or the State in consultation with the Administrator, in any case in which the State has a pretreatment program approved by the Administrator)—

"(A) determines that the proposed extension will not cause the publicly owned treatment works to be in violation of its permit under section 402 or of section 405 or to contribute to such a violation, and

"(B) concurs with the proposed extension.".

(b) INCREASE IN EPA EMPLOYEES.—The Administrator shall take such actions as may be necessary to increase the number of employees of the Environmental Protection Agency in order to effectively implement pretreatment requirements under section 307 of the Federal Water Pollution Control Act.

SEC. 310. INSPECTION AND ENTRY.

(a) UNAUTHORIZED DISCLOSURE.—

(1) IN GENERAL.—Section 308(b) is amended by striking out all that follows "Code" and inserting in lieu thereof a period and the following: "Any authorized representative of the Administrator (including an authorized contractor acting as a representative of the Administrator) who knowingly or willfully publishes, divulges, discloses, or makes known in any manner or to any extent not authorized by law any information which is required to be considered confidential under this subsection shall be fined not more than $1,000 or imprisoned not more than 1 year, or both. Nothing in this subsection shall prohibit the Administrator or an authorized representative of the Administrator (including any authorized contractor acting as a representative of the Administrator) from disclosing records, reports, or information to other officers, employees, or authorized representatives of the United States concerned with carrying out this Act or when relevant in any proceeding under this Act.".

(2) CONFORMING AMENDMENT.—Section 308(a)(B) is amended by inserting "(including an authorized contractor acting as a representative of the Administrator)" after "or his authorized representative".

(b) ACCESS BY CONGRESS.—Section 308 is amended by adding at the end the following new subsection:

"(d) ACCESS BY CONGRESS.—Notwithstanding any limitation contained in this section or any other provision of law, all information reported to or otherwise obtained by the Administrator (or any representative of the Administrator) under this Act shall be made available, upon written request of any duly authorized committee of Congress, to such committee.".

SEC. 311. MARINE SANITATION DEVICES.

(a) STATE REGULATION OF HOUSEBOATS.—Section 312(f)(1) is amended by striking out "After" and inserting in lieu thereof "(A) Except as provided in subparagraph (B), after" and by adding at the end thereof the following:

"(B) A State may adopt and enforce a statute or regulation with respect to the design, manufacture, or installation or use of any marine sanitation device on a houseboat, if such statute or regulation is more stringent than the standards and regulations promulgated under this section. For purposes of this paragraph, the term 'houseboat' means a vessel which, for a period of time determined by the State in which the vessel is located, is used primarily as a residence and is not used primarily as a means of transportation.".

(b) STATE ENFORCEMENT.—Section 312(k) is amended by adding at the end the following: "The provisions of this section may also be enforced by a State.".

SEC. 312. CRIMINAL PENALTIES.

Section 309(c) is amended to read as follows:

"(c) CRIMINAL PENALTIES.—

"(1) NEGLIGENT VIOLATIONS.—Any person who—

"(A) negligently violates section 301, 302, 306, 307, 308, 318, or 405 of this Act, or any permit condition or limitation implementing any of such sections in a permit issued under section 402 of this Act by the Administrator or by a State, or any requirement imposed in a pretreatment program approved under section 402(a)(3) or 402(b)(8) of this Act or in a permit issued under section 404 of this Act by the Secretary of the Army or by a State; or

"(B) negligently introduces into a sewer system or into a publicly owned treatment works any pollutant or hazardous substance which such person knew or reasonably should have known could cause personal injury or property damage or, other than in compliance with all applicable Federal, State, or local requirements or permits, which causes such treatment works to violate any effluent limitation or condition in any permit issued to the treatment works under section 402 of this Act by the Administrator or a State;

shall be punished by a fine of not less than $2,500 nor more than $25,000 per day of violation, or by imprisonment for not more than 1 year, or by both. If a conviction of a person is for a violation committed after a first conviction of such person under this paragraph, punishment shall be by a fine of not more than $50,000 per day of violation, or by imprisonment of not more than 2 years, or by both.

"(2) KNOWING VIOLATIONS.—Any person who—

"(A) knowingly violates section 301, 302, 306, 307, 308, 318, or 405 of this Act, or any permit condition or limitation implementing any of such sections in a permit issued under section 402 of this Act by the Administrator or by a State, or any requirement imposed in a pretreatment program approved under section 402(a)(3) or 402(b)(8) of this Act or in a permit issued under section 404 of this Act by the Secretary of the Army or by a State; or

"(B) knowingly introduces into a sewer system or into a publicly owned treatment works any pollutant or hazardous substance which such person knew or reasonably should have known could cause personal injury or property damage or, other than in compliance with all applicable Federal, State, or local requirements or permits, which causes such treatment works to vio-

late any effluent limitation or condition in a permit issued to the treatment works under section 402 of this Act by the Administrator or a State;

shall be punished by a fine of not less than $5,000 nor more than $50,000 per day of violation, or by imprisonment for not more than 3 years, or by both. If a conviction of a person is for a violation committed after a first conviction of such person under this paragraph, punishment shall be by a fine of not more than $100,000 per day of violation, or by imprisonment of not more than 6 years, or by both.

"(3) KNOWING ENDANGERMENT.—

"(A) GENERAL RULE.—Any person who knowingly violates section 301, 302, 303, 306, 307, 308, 318, or 405 of this Act, or any permit condition or limitation implementing any of such sections in a permit issued under section 402 of this Act by the Administrator or by a State, or in a permit issued under section 404 of this Act by the Secretary of the Army or by a State, and who knows at that time that he thereby places another person in imminent danger of death or serious bodily injury, shall, upon conviction, be subject to a fine of not more than $250,000 or imprisonment of not more than 15 years, or both. A person which is an organization shall, upon conviction of violating this subparagraph, be subject to a fine of not more than $1,000,000. If a conviction of a person is for a violation committed after a first conviction of such person under this paragraph, the maximum punishment shall be doubled with respect to both fine and imprisonment.

"(B) ADDITIONAL PROVISIONS.—For the purpose of subparagraph (A) of this paragraph—

"(i) in determining whether a defendant who is an individual knew that his conduct placed another person in imminent danger of death or serious bodily injury—

"(I) the person is responsible only for actual awareness or actual belief that he possessed; and

"(II) knowledge possessed by a person other than the defendant but not by the defendant himself may not be attributed to the defendant;

except that in proving the defendant's possession of actual knowledge, circumstantial evidence may be used, including evidence that the defendant took affirmative steps to shield himself from relevant information;

"(ii) it is an affirmative defense to prosecution that the conduct charged was consented to by the person endangered and that the danger and conduct charged were reasonably foreseeable hazards of—

"(I) an occupation, a business, or a profession; or

"(II) medical treatment or medical or scientific experimentation conducted by professionally approved methods and such other person had been made aware of the risks involved prior to giving consent;

and such defense may be established under this subparagraph by a preponderance of the evidence;

"(iii) the term 'organization' means a legal entity, other than a government, established or organized for any purpose, and such term includes a corporation, company, association, firm, partnership, joint stock company, foundation, institution, trust, society, union, or any other association of persons; and

"(iv) the term 'serious bodily injury' means bodily injury which involves a substantial risk of death, unconsciousness, extreme physical pain, protracted and obvious disfigurement, or protracted loss or impairment of the function of a bodily member, organ, or mental faculty.

"(4) FALSE STATEMENTS.—Any person who knowingly makes any false material statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained under this Act or who knowingly falsifies, tampers with, or renders inaccurate any monitoring device or method required to be maintained under this Act, shall upon conviction, be punished by a fine of not more than $10,000, or by imprisonment for not more than 2 years, or by both. If a conviction of a person is for a violation committed after a first conviction of such person under this paragraph, punishment shall be by a fine of not more than $20,000 per day of violation, or by imprisonment of not more than 4 years, or by both.

"(5) TREATMENT OF SINGLE OPERATIONAL UPSET.—For purposes of this subsection, a single operational upset which leads to simultaneous violations of more than one pollutant parameter shall be treated as a single violation.

"(6) RESPONSIBLE CORPORATE OFFICER AS 'PERSON'.—For the purpose of this subsection, the term 'person' means, in addition to the definition contained in section 502(5) of this Act, any responsible corporate officer.

"(7) HAZARDOUS SUBSTANCE DEFINED.—For the purpose of this subsection, the term 'hazardous substance' means (A) any substance designated pursuant to section 311(b)(2)(A) of this Act, (B) any element, compound, mixture, solution, or substance designated pursuant to section 102 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, (C) any hazardous waste having the characteristics identified under or listed pursuant to section 3001 of the Solid Waste Disposal Act (but not including any waste the regulation of which under the Solid Waste Disposal Act has been suspended by Act of Congress), (D) any toxic pollutant listed under section 307(a) of this Act, and (E) any imminently hazardous chemical substance or mixture with respect to which the Administrator has taken action pursuant to section 7 of the Toxic Substances Control Act.".

SEC. 313. CIVIL PENALTIES.

(a) VIOLATIONS OF PRETREATMENT REQUIREMENTS.—

(1) GENERAL RULE.—Section 309(d) is amended by inserting ", or any requirement imposed in a pretreatment program approved under section 402(a)(3) or 402(b)(8) of this Act," after "section 404 of this Act by a State,".

(2) SAVINGS PROVISION.—No State shall be required before July 1, 1988, to modify a permit program approved or submitted under section 402 of the Federal Water Pollution Control Act as a result of the amendment made by paragraph (1).

(b) INCREASED PENALTY.—

(1) GENERAL RULE.—Section 309(d) is amended by striking out "$10,000 per day of such violation" and inserting in lieu thereof "$25,000 per day for each violation".

(2) INCREASED PENALTIES NOT REQUIRED UNDER STATE PROGRAMS.—The Federal Water Pollution Control Act shall not be construed as requiring a State to have a civil penalty for violations described in section 309(d) of such Act which has the same monetary amount as the civil penalty established by such section, as amended by paragraph (1). Nothing in this paragraph shall affect the Administrator's authority to establish or adjust by regulation a minimum acceptable State civil penalty.

(c) FACTORS TO CONSIDER IN DETERMINING PENALTY AMOUNT.—Section 309(d) is amended by adding at the end thereof the following: "In determining the amount of a civil penalty the court shall consider the seriousness of the violation or violations, the economic benefit (if any) resulting from the violation, any history of such violations, any good-faith efforts to comply with the applicable requirements, the economic impact of the penalty on the violator, and such other matters as justice may require. For purposes of this subsection, a single operational upset which leads to simultaneous violations of more than one pollutant parameter shall be treated as a single violation.".

(d) VIOLATIONS OF SECTION 404 PERMITS.—Section 404(s) is amended—

(1) by striking out paragraph (4);

(2) by redesignating paragraph (5) as paragraph (4); and

(3) in paragraph (4), as so redesignated—

(A) by striking out "$10,000 per day of such violation" and inserting in lieu thereof "$25,000 per day for each violation";

(B) by adding at the end thereof the following: "In determining the amount of a civil penalty the court shall consider the seriousness of the violation or violations, the economic benefit (if any) resulting from the violation, any history of such violations, any good-faith efforts to comply with the applicable requirements, the economic impact of the penalty on the violator, and such other matters as justice may require.".

SEC. 314. ADMINISTRATIVE PENALTIES.

(a) GENERAL RULE.—Section 309 is amended by adding at the end thereof the following:

"(g) ADMINISTRATIVE PENALTIES.—

"(1) VIOLATIONS.—Whenever on the basis of any information available—

"(A) the Administrator finds that any person has violated section 301, 302, 306, 307, 308, 318, or 405 of this Act, or has violated any permit condition or limitation implementing any of such sections in a permit issued under section 402 of this Act by the Administrator or by a State, or in a permit issued under section 404 by a State, or

"(B) the Secretary of the Army (hereinafter in this subsection referred to as the 'Secretary') finds that any person has violated any permit condition or limitation in a permit issued under section 404 of this Act by the Secretary,

the Administrator or Secretary, as the case may be, may, after consultation with the State in which the violation occurs, assess a class I civil penalty or a class II civil penalty under this subsection.

"(2) CLASSES OF PENALTIES.—

"(A) CLASS I.—The amount of a class I civil penalty under paragraph (1) may not exceed $10,000 per violation, except that the maximum amount of any class I civil penalty under this subparagraph shall not exceed $25,000. Before issuing an order assessing a civil penalty under this subparagraph, the Administrator or the Secretary, as the case may be, shall give to the person to be assessed such penalty written notice of the Administrator's or Secretary's proposal to issue such order and the opportunity to request, within 30 days of the date the notice is received by such person, a hearing on the proposed order. Such hearing shall not be subject to section 554 or 556 of title 5, United States Code, but shall provide a reasonable opportunity to be heard and to present evidence.

"(B) CLASS II.—The amount of a class II civil penalty under paragraph (1) may not exceed $10,000 per day for each day during which the violation continues; except that the maximum amount of any class II civil penalty under this subparagraph shall not exceed $125,000. Except as otherwise provided in this subsection, a class II civil penalty shall be assessed and collected in the same manner, and subject to the same provisions, as in the case of civil penalties assessed and collected after notice and opportunity for a hearing on the record in accordance with section 554 of title 5, United States Code. The Administrator and the Secretary may issue rules for discovery procedures for hearings under this subparagraph.

"(3) DETERMINING AMOUNT.—In determining the amount of any penalty assessed under this subsection, the Administrator or the Secretary, as the case may be, shall take into account the nature, circumstances, extent and gravity of the violation, or violations, and, with respect to the violator, ability to pay, any prior history of such violations, the degree of culpability, economic benefit or savings (if any) resulting from the violation, and such other matters as justice may require. For purposes of this subsection, a single operational upset which leads to simultaneous violations of more than one pollutant parameter shall be treated as a single violation.

"(4) RIGHTS OF INTERESTED PERSONS.—

"(A) PUBLIC NOTICE.—Before issuing an order assessing a civil penalty under this subsection the Administrator or Secretary, as the case may be, shall provide public notice of and reasonable opportunity to comment on the proposed issuance of such order.

"(B) PRESENTATION OF EVIDENCE.—Any person who comments on a proposed assessment of a penalty under this subsection shall be given notice of any hearing held under this subsection and of the order assessing such penalty. In any hearing held under this subsection, such person shall have a reasonable opportunity to be heard and to present evidence.

"(C) RIGHTS OF INTERESTED PERSONS TO A HEARING.—If no hearing is held under paragraph (2) before issuance of an order assessing a penalty under this subsection, any person who commented on the proposed assessment may petition, within 30 days after the issuance of such order, the Administrator or Secretary, as the case may be, to set aside such order and to provide a hearing on the penalty. If the evidence presented by the petitioner in support of the petition is material and was not considered in the issuance of the order, the Administrator or Secretary shall immediately set aside such order and provide a hearing in accordance with paragraph (2)(A) in the case of a class I civil penalty and paragraph (2)(B) in the case of a class II civil penalty. If the Administrator or Secretary denies a hearing under this subparagraph, the Administrator or Secretary shall provide to the petitioner, and publish in the Federal Register, notice of and the reasons for such denial.

"(5) FINALITY OF ORDER.—An order issued under this subsection shall become final 30 days after its issuance unless a petition for judicial review is filed under paragraph (8) or a hearing is requested under paragraph (4)(C). If such a hearing is denied, such order shall become final 30 days after such denial.

"(6) EFFECT OF ORDER.—

"(A) LIMITATION ON ACTIONS UNDER OTHER SECTIONS.—Action taken by the Administrator or the Secretary, as the case may be, under this subsection shall not affect or limit the Administrator's or Secretary's authority to enforce any provision of this Act; except that any violation—

"(i) with respect to which the Administrator or the Secretary has commenced and is diligently prosecuting an action under this subsection,

"(ii) with respect to which a State has commenced and is diligently prosecuting an action under a State law comparable to this subsection, or

"(iii) for which the Administrator, the Secretary, or the State has issued a final order not subject to further judicial review and the violator has paid a penalty assessed under this subsection, or such comparable State law, as the case may be,

shall not be the subject of a civil penalty action under subsection (d) of this section or section 311(b) or section 505 of this Act.

"(B) APPLICABILITY OF LIMITATION WITH RESPECT TO CITIZEN SUITS.—The limitations contained in subparagraph (A) on civil penalty actions under section 505 of this Act shall not apply with respect to any violation for which—

"(i) a civil action under section 505(a)(1) of this Act has been filed prior to commencement of an action under this subsection, or

"(ii) notice of an alleged violation of section 505(a)(1) of this Act has been given in accordance with section 505(b)(1)(A) prior to commencement of an action under this subsection and an action under section 505(a)(1) with respect to such alleged violation is filed before the 120th day after the date on which such notice is given.

"(7) EFFECT OF ACTION ON COMPLIANCE.—No action by the Administrator or the Secretary under this subsection shall affect any person's obligation to comply with any section of this Act or with the terms and conditions of any permit issued pursuant to section 402 or 404 of this Act.

"(8) JUDICIAL REVIEW.—Any person against whom a civil penalty is assessed under this subsection or who commented on the proposed assessment of such penalty in accordance with paragraph (4) may obtain review of such assessment—

"(A) in the case of assessment of a class I civil penalty, in the United States District Court for the District of Columbia or in the district in which the violation is alleged to have occurred, or

"(B) in the case of assessment of a class II civil penalty, in the United States Court of Appeals for the District of Columbia Circuit or for any other circuit in which such person resides or transacts business,

by filing a notice of appeal in such court within the 30-day period beginning on the date the civil penalty order is issued and by simultaneously sending a copy of such notice by certified mail to the Administrator or the Secretary, as the case may be, and the Attorney General. The Administrator or the Secretary shall promptly file in such court a certified copy of the record on which the order was issued. Such court shall not set aside or remand such order unless there is not substantial evidence in the record, taken as a whole, to support the finding of a violation or unless the Administrator's or Secretary's assessment of the penalty constitutes an abuse of discretion and shall not impose additional civil penalties for the same violation unless the Administrator's or Secretary's assessment of the penalty constitutes an abuse of discretion.

"(9) COLLECTION.—If any person fails to pay an assessment of a civil penalty—

"(A) after the order making the assessment has become final, or

"(B) after a court in an action brought under paragraph (8) has entered a final judgment in favor of the Administrator or the Secretary, as the case may be,

the Administrator or the Secretary shall request the Attorney General to bring a civil action in an appropriate district court to recover the amount assessed (plus interest at currently prevailing rates from the date of the final order or the date of the final judgment, as the case may be). In such an action, the validity, amount, and appropriateness of such penalty shall not be subject to review. Any person who fails to pay on a timely basis the amount of an assessment of a civil penalty as described in the first sentence of this paragraph shall be required to pay, in addition to such amount and interest, attorneys fees and costs for collection proceedings and a quarterly nonpayment penalty for each quarter during which such failure to pay persists. Such nonpayment penalty shall be in an amount equal to 20 percent of the aggregate amount of such person's penalties and nonpayment penalties which are unpaid as of the beginning of such quarter.

"(10) SUBPOENAS.—The Administrator or Secretary, as the case may be, may issue subpoenas for the attendance and testimony of witnesses and the production of relevant papers, books, or documents in connection with hearings under this subsection. In case of contumacy or refusal to obey a subpoena issued pursuant to this paragraph and served upon any person, the district court of the United States for any district in which such person is found, resides, or transacts business, upon application by the United States and after notice to such person, shall have jurisdiction to issue an order requiring such person to appear and give testimony before the administrative law judge or to appear and produce documents before the administrative law judge, or both, and any failure to obey such order of the court may be punished by such court as a contempt thereof.

"(11) PROTECTION OF EXISTING PROCEDURES.—Nothing in this subsection shall change the procedures existing on the day before the date of the enactment of the Water Quality Act of 1987 under other subsections of this section for issuance and enforcement of orders by the Administrator.".

(b) REPORTS ON ENFORCEMENT MECHANISMS.—The Secretary of the Army and the Administrator shall each prepare and submit a report to the Congress, not later than December 1, 1988, which shall examine and analyze various enforcement mechanisms for use by the Secretary or Administrator, as the case may be, including an administrative civil penalty mechanism. Each of such reports shall also include an examination, prepared in consultation with the Comptroller General, of the efficacy of the Secretary's or the Administrator's existing enforcement authorities and shall include recommendations for improvements in their operation.

(c) CONFORMING AMENDMENT.—Section 505(a) is amended by inserting "and section 309(g)(6)" after "Except as provided in subsection (b) of this section".

SEC. 315. CLEAN LAKES.

(a) ESTABLISHMENT AND SCOPE OF PROGRAM.—Section 314(a) is amended to read as follows:

"(a) ESTABLISHMENT AND SCOPE OF PROGRAM.—

"(1) STATE PROGRAM REQUIREMENTS.—Each State on a biennial basis shall prepare and submit to the Administrator for his approval—

"(A) an identification and classification according to eutrophic condition of all publicly owned lakes in such State;

"(B) a description of procedures, processes, and methods (including land use requirements), to control sources of pollution of such lakes;

"(C) a description of methods and procedures, in conjunction with appropriate Federal agencies, to restore the quality of such lakes;

"(D) methods and procedures to mitigate the harmful effects of high acidity, including innovative methods of neutralizing and restoring buffering capacity of lakes and methods of removing from lakes toxic metals and other toxic substances mobilized by high acidity;

"(E) a list and description of those publicly owned lakes in such State for which uses are known to be impaired, including those lakes which are known not to meet applicable water quality standards or which require implementation of control programs to maintain compliance with applicable standards and those lakes in which water quality has deteriorated as a result of high acidity that may reasonably be due to acid deposition; and

"(F) an assessment of the status and trends of water quality in lakes in such State, including but not limited to, the nature and extent of pollution loading from point and nonpoint sources and the extent to which the use of lakes is impaired as a result of such pollution, particularly with respect to toxic pollution.

"(2) SUBMISSION AS PART OF 305(b)(1) REPORT.—The information required under paragraph (1) shall be included in the report required under section 305(b)(1) of this Act, beginning with the report required under such section by April 1, 1988.

"(3) REPORT OF ADMINISTRATOR.—Not later than 180 days after receipt from the States of the biennial information required under paragraph (1), the Administrator shall submit to the Committee on Public Works and Transportation of the House of Representatives and the Committee on Environment and Public Works of the Senate a report on the status of water quality in lakes in the United States, including the effectiveness of the methods and procedures described in paragraph (1)(D).

"(4) ELIGIBILITY REQUIREMENT.—Beginning after April 1, 1988, a State must have submitted the information required under paragraph (1) in order to receive grant assistance under this section.".

(b) DEMONSTRATION PROGRAM.—Section 314 is amended by adding at the end thereof the following new subsections:

"(d) DEMONSTRATION PROGRAM.—

"(1) GENERAL REQUIREMENTS.—The Administrator is authorized and directed to establish and conduct at locations throughout the Nation a lake water quality demonstration program. The program shall, at a minimum—

"(A) develop cost effective technologies for the control of pollutants to preserve or enhance lake water quality while optimizing multiple lakes uses;

"(B) control nonpoint sources of pollution which are contributing to the degradation of water quality in lakes;

"(C) evaluate the feasibility of implementing regional consolidated pollution control strategies;

"(D) demonstrate environmentally preferred techniques for the removal and disposal of contaminated lake sediments;

"(E) develop improved methods for the removal of silt, stumps, aquatic growth, and other obstructions which impair the quality of lakes;

"(F) construct and evaluate silt traps and other devices or equipment to prevent or abate the deposit of sediment in lakes; and

"(G) demonstrate the costs and benefits of utilizing dredged material from lakes in the reclamation of despoiled land.

"(2) GEOGRAPHICAL REQUIREMENTS.—Demonstration projects authorized by this subsection shall be undertaken to reflect a variety of geographical and environmental conditions. As a priority, the Administrator shall undertake demonstration projects at Lake Houston, Texas; Beaver Lake, Arkansas; Greenwood Lake and Belcher Creek, New Jersey; Deal Lake, New Jersey; Alcyon Lake, New Jersey; Gorton's Pond, Rhode Island; Lake Washington, Rhode Island; Lake Bomoseen, Vermont; Sauk Lake, Minnesota; and Lake Worth, Texas.

"(3) REPORTS.—The Administrator shall report annually to the Committee on Public Works and Transportation of the House of Representatives and the Committee on Environment and Public Works of the Senate on work undertaken pursuant to this subsection. Upon completion of the program authorized by this subsection, the Administrator shall submit to such Committees a final report on the results of such program, along with recommendations for further measures to improve the water quality of the Nation's lakes.

"(4) AUTHORIZATION OF APPROPRIATIONS.—

"(A) IN GENERAL.—There is authorized to be appropriated to carry out this subsection not to exceed $40,000,000 for fiscal years beginning after September 30, 1986, to remain available until expended.

"(B) SPECIAL AUTHORIZATIONS.—

"(i) AMOUNT.—There is authorized to be appropriated to carry out subsection (b) with respect to subsection (a)(1)(D) not to exceed $15,000,000 for fiscal years beginning after September 30, 1986, to remain available until expended.

"(ii) DISTRIBUTION OF FUNDS.—The Administrator shall provide for an equitable distribution of sums appropriated pursuant to this subparagraph among States carrying out approved methods and procedures. Such distribution shall be based on the relative needs of each such State for the mitigation of the harmful effects on lakes and other surface waters of high acidity that may reasonably be due to acid deposition or acid mine drainage.

"(iii) GRANTS AS ADDITIONAL ASSISTANCE.—The amount of any grant to a State under this subparagraph shall be in addition to, and not in lieu of, any other Federal financial assistance.".

(c) LAKE RESTORATION GUIDANCE MANUAL.—Section 304(j) is amended to read as follows:

"(j) LAKE RESTORATION GUIDANCE MANUAL.—The Administrator shall, within 1 year after the date of the enactment of the Water Quality Act of 1987 and biennially thereafter, publish and disseminate a lake restoration guidance manual describing methods, procedures, and processes to guide State and local efforts to improve, restore, and enhance water quality in the Nation's publicly owned lakes.".

(d) CONFORMING AMENDMENTS.—Section 314 is further amended—

(1) in subsection (b) by striking out "this section" the first place it appears and inserting in lieu thereof "subsection (a) of this section";

(2) in subsection (c)(1) by striking out "this section" the first place it appears and inserting in lieu thereof "subsection (b) of this section" and by striking out "this section" the second place it appears and inserting in lieu thereof "subsection (a) of this section"; and

(3) in subsection (c)(2) by striking out "this section" the first place it appears and inserting in lieu thereof "subsection (b) of this section" and by striking out "this section" the second place it appears and inserting in lieu thereof "subsection (a) of this section".

SEC. 316. MANAGEMENT OF NONPOINT SOURCES OF POLLUTION.

(a) IN GENERAL.—Title III is amended by adding at the end the following new section:

"SEC. 319. NONPOINT SOURCE MANAGEMENT PROGRAMS.

"(a) This section shall apply only to programs funded in whole or in part with sums reserved under section 205(l) of this Act.

"(b) STATE MANAGEMENT.—

"(1) IN GENERAL.—The Governor of each State, for that State or in combination with adjacent States, may, after notice and opportunity for public comment, prepare and submit to the Administrator a management program which such State proposes to implement in the first four fiscal years beginning after the date of submission of such management program for controlling pollution added from nonpoint sources to the navigable waters within the State and improving the quality of such waters.

"(2) SPECIFIC CONTENTS.—Each management program proposed for implementation under this subsection should include each of the following:

"(A) An identification of the best management practices and measures which will be undertaken to reduce pollutant loadings resulting from each category, subcategory, or particular nonpoint source designated under paragraph (b)(1)(B), taking into account the impact of the practice on ground water quality.

"(B) An identification of programs (including, as appropriate, nonregulatory or regulatory programs for enforcement, technical assistance, financial assistance, education, training, technology transfer, and demonstration projects) to achieve implementation of the best management practices by the categories, subcategories, and particular nonpoint sources designated under subparagraph (A).

"(C) A schedule containing annual milestones for (i) utilization of the program implementation methods identified in subparagraph (B), and (ii) implementation of the best management practices identified in subparagraph (A) by the categories, subcategories, or particular nonpoint sources designated under paragraph (b)(1)(B). Such schedule shall provide for utilization of the best management practices at the earliest practicable date.

"(D) A certification of the attorney general of the State or States (or the chief attorney of any State water pollution control agency which has independent legal counsel) that the laws of the State or States, as the case may be, provide adequate authority to implement such management program or, if there is not such adequate authority, a

list of such additional authorities as will be necessary to implement such management program. A schedule and commitment by the State or States to seek such additional authorities as expeditiously as practicable.

"(E) Sources of Federal and other assistance and funding (other than assistance provided under subsections (i) and (j)) which will be available in each of such fiscal years for supporting implementation of such practices and measures and the purposes for which such assistance will be used in each of such fiscal years.

"(F) An identification of Federal financial assistance programs and Federal development projects for which the State will review individual assistance applications or development projects for their effect on water quality pursuant to the procedures set forth in Executive Order 12372 as in effect on September 17, 1983, to determine whether such assistance applications or development projects would be consistent with the program prepared under this subsection; for the purposes of this subparagraph, identification shall not be limited to the assistance programs or development projects subject to Executive Order 12372 but may include any programs listed in the most recent Catalog of Federal Domestic Assistance which may have an effect on the purposes and objectives of the State's nonpoint source pollution management program.

"(3) UTILIZATION OF LOCAL AND PRIVATE EXPERTS.—In developing and implementing a management program under this subsection, a State should, to the maximum extent practicable, involve local public and private agencies and organizations which have expertise in control of nonpoint sources of pollution.

"(4) DEVELOPMENT ON WATERSHED BASIS.—A State should, to the maximum extent practicable, develop and implement a management program under this subsection on a watershed-by-watershed basis within such State.

"(d) GRANT PROGRAM.—

"(1) GRANTS FOR IMPLEMENTATION OF MANAGEMENT PROGRAMS.—Upon submission by a State of a management program under subsection (b), the Administrator may make grants, subject to such terms and conditions as the Administrator considers appropriate, under this subsection to such State for the purpose of assisting the State in implementing such management program.

"(2) APPLICATIONS.—An application for a grant under this subsection in any fiscal year shall be in such form and shall contain such other information as the Administrator may require, including an identification and description of the best management practices and measures which the State proposes to assist, encourage, or require in such year with the Federal assistance to be provided under the grant.

"(3) LIMITATION ON USE OF FUNDS.—States may use funds from grants made pursuant to this section for financial assistance to persons only to the extent that such assistance is related to the costs of demonstration projects.

"(4) MAINTENANCE OF EFFORT.—No grant may be made to a State under this subsection in any fiscal year unless such State enters into such agreements with the Administrator as the Administrator may require to ensure that such State will maintain its aggregate expenditures from all other sources for programs for controlling pollution added to the navigable waters in such State from nonpoint sources and improving the quality of such waters at or above the average level of such expenditures in its two fiscal years preceding the date of enactment of this subsection.

"(5) REQUEST FOR INFORMATION.—The Administrator may request such information, data, and reports as he considers necessary to make the determination of continuing eligibility for grants under this section.

"(j) GRANTS FOR PROTECTING GROUND WATER QUALITY.—

"(1) ELIGIBLE APPLICANTS AND ACTIVITIES.—Upon submission by a State of a plan under subsection (b), the Administrator shall make grants under this subsection to such State for the purpose of assisting such State in carrying out groundwater quality protection activities which the Administrator determines will advance the State toward implementation of a comprehensive nonpoint source pollution control program. Such activities shall include, but not be limited to, research, planning, groundwater assessments, demonstration programs, enforcement, technical assistance, education and training to protect the quality of groundwater and to prevent contamination of groundwater from nonpoint sources of pollution.

"(2) APPLICATIONS.—An application for a grant under this subsection shall be in such form and shall contain such information as the Administrator may require.

"(k) CONSISTENCY OF OTHER PROGRAMS AND PROJECTS WITH MANAGEMENT PROGRAMS.—The Administrator shall transmit to the Office of Management and Budget and the appropriate Federal departments and agencies a list of those assistance programs and development projects identified by each State under subsection (b)(2)(F) for which individual assistance applications and projects will be reviewed pursuant to the procedures set forth in Executive Order 12372 as in effect on September 17, 1983. Beginning not later than sixty days after receiving notification by the Administrator, each Federal department and agency shall modify existing regulations to allow States to review individual development projects and assistance applications under the identified Federal assistance programs and shall accommodate, according to the requirements and definitions of Executive Order 12372, as in effect on September 17, 1983, the concerns of the State regarding the consistency of such applications or projects with the State nonpoint source pollution management program.

"(l) COLLECTION OF INFORMATION.—The Administrator shall collect and make available, through publications and other appropriate means, information pertaining to management practices and implementation methods, including, but not limited to, (1) information concerning the costs and relative efficiencies of best management practices for reducing nonpoint source pollution; and (2) available data concerning the relationship between water quality and implementation of various management practices to control nonpoint sources of pollution.

(b) POLICY FOR CONTROL OF NONPOINT SOURCES OF POLLUTION.—Section 101(a) is amended by striking out "and" at the end of paragraph (5), by striking out the period at the end of paragraph (6) and inserting in lieu thereof "; and", and by adding at the end thereof the following:

"(7) it is the national policy that programs for the control of nonpoint sources of pollution be developed and implemented in an expeditious manner so as to enable the goals of this Act to be met through the control of both point and nonpoint sources of pollution.".

(c) CONFORMING AMENDMENT.—Section 304(k)(1) is amended by inserting "and nonpoint source pollution management programs approved under section 319 of this Act" after "208 of this Act".

SEC. 317. NATIONAL ESTUARY PROGRAM.

(a) PURPOSES AND POLICIES.—

(1) FINDINGS.—Congress finds and declares that—

(A) the Nation's estuaries are of great importance for fish and wildlife resources and recreation and economic opportunity;

(B) maintaining the health and ecological integrity of these estuaries is in the national interest;

(C) increasing coastal population, development, and other direct and indirect uses of these estuaries threaten their health and ecological integrity;

(D) long-term planning and management will contribute to the continued productivity of these areas, and will maximize their utility to the Nation; and

(E) better coordination among Federal and State programs affecting estuaries will increase the effectiveness and efficiency of the national effort to protect, preserve, and restore these areas.

(2) PURPOSES.—The purposes of this section are to—

(A) identify nationally significant estuaries that are threatened by pollution, development, or overuse;

(B) promote comprehensive planning for, and conservation and management of, nationally significant estuaries;

(C) encourage the preparation of management plans for estuaries of national significance; and

(D) enhance the coordination of estuarine research.

(b) MANAGEMENT PROGRAM.—Title III is amended by adding at the end thereof the following new section:

"SEC. 320. NATIONAL ESTUARY PROGRAM.

"(a) MANAGEMENT CONFERENCE.—

"(1) NOMINATION OF ESTUARIES.—The Governor of any State may nominate to the Administrator an estuary lying in whole or in part within the State as an estuary of national significance and request a management conference to develop a comprehensive management plan for the estuary. The nomination shall document the need for the conference, the likelihood of success, and information relating to the factors in paragraph (2).

"(2) CONVENING OF CONFERENCE.—

"(A) IN GENERAL.—In any case where the Administrator determines, on his own initiative or upon nomination of a State under paragraph (1), that the attainment or maintenance of that water quality in an estuary which assures protection of public water supplies and the protection and propagation of a balanced, indigenous population of shellfish, fish, and wildlife, and allows recreational activities, in and on the water, requires the control of point and nonpoint sources of pollution to supplement existing controls of pollution in more than one State, the Administrator shall select such estuary and convene a management conference.

"(B) PRIORITY CONSIDERATION.—The Administrator shall give priority consideration under this section to Long Island Sound, New York and Connecticut; Narragansett Bay, Rhode Island; Buzzards Bay, Massachusetts; Puget Sound, Washington; New York-New Jersey Harbor, New York and New Jersey; Delaware Bay, Delaware and New Jersey; Delaware Inland Bays, Dela-

ware; Albemarle Sound, North Carolina; Sarasota Bay, Florida; San Francisco Bay, California; and Galveston Bay, Texas.

"(3) BOUNDARY DISPUTE EXCEPTION.—In any case in which a boundary between two States passes through an estuary and such boundary is disputed and is the subject of an action in any court, the Administrator shall not convene a management conference with respect to such estuary before a final adjudication has been made of such dispute.

"(b) PURPOSES OF CONFERENCE.—The purposes of any management conference convened with respect to an estuary under this subsection shall be to—

"(1) assess trends in water quality, natural resources, and uses of the estuary;

"(2) collect, characterize, and assess data on toxics, nutrients, and natural resources within the estuarine zone to identify the causes of environmental problems;

"(3) develop the relationship between the inplace loads and point and nonpoint loadings of pollutants to the estuarine zone and the potential uses of the zone, water quality, and natural resources;

"(4) develop a comprehensive conservation and management plan that recommends priority corrective actions and compliance schedules addressing point and nonpoint sources of pollution to restore and maintain the chemical, physical, and biological integrity of the estuary, including restoration and maintenance of water quality, a balanced indigenous population of shellfish, fish and wildlife, and recreational activities in the estuary, and assure that the designated uses of the estuary are protected;

"(5) develop plans for the coordinated implementation of the plan by the States as well as Federal and local agencies participating in the conference;

"(6) monitor the effectiveness of actions taken pursuant to the plan; and

"(7) review all Federal financial assistance program and Federal development project in accordance with the requirements of Executive Order 12372, as in effect on September 17, 1983, to determine whether such assistance program or project would be consistent with and further the purposes and objectives of the plan prepared under this section.

For purposes of paragraph (7), such programs and projects shall not be limited to the assistance programs and development projects subject to Executive Order 12372, but may include any programs listed in the most recent Catalog of Federal Domestic Assistance which may have an effect on the purposes and objectives of the plan developed under this section.

"(c) MEMBERS OF CONFERENCE.—The members of a management conference convened under this section shall include, at a minimum, the Administrator and representatives of—

"(1) each State and foreign nation located in whole or in part in the estuarine zone of the estuary for which the conference is convened;

"(2) international, interstate, or regional agencies or entities having jurisdiction over all or a significant part of the estuary;

"(3) each interested Federal agency, as determined appropriate by the Administrator;

"(4) local governments having jurisdiction over any land or water within the estuarine zone, as determined appropriate by the Administrator; and

"(5) affected industries, public and private educational institutions, and the general public, as determined appropriate by the Administrator.

"(d) UTILIZATION OF EXISTING DATA.—In developing a conservation and management plan under this section, the management conference shall survey and utilize existing reports, data, and studies relating to the estuary that have been developed by or made available to Federal, interstate, State, and local agencies.

"(e) PERIOD OF CONFERENCE.—A management conference convened under this section shall be convened for a period not to exceed 5 years. Such conference may be extended by the Administrator, and if terminated after the initial period, may be reconvened by the Administrator at any time thereafter, as may be necessary to meet the requirements of this section.

"(f) APPROVAL AND IMPLEMENTATION OF PLANS.—

"(1) APPROVAL.—Not later than 120 days after the completion of a conservation and management plan and after providing for public review and comment, the Administrator shall approve such plan if the plan meets the requirements of this section and the affected Governor or Governors concur.

"(2) IMPLEMENTATION.—Upon approval of a conservation and management plan under this section, such plan shall be implemented. Funds authorized to be appropriated under titles II and VI and section 319 of this Act may be used in accordance with the applicable requirements of this Act to assist States with the implementation of such plan.

"(g) GRANTS.—

"(1) RECIPIENTS.—The Administrator is authorized to make grants to State, interstate, and regional water pollution control agencies and entities, State coastal zone management agencies, interstate agencies, other public or nonprofit private agencies, institutions, organizations, and individuals.

"(2) PURPOSES.—Grants under this subsection shall be made to pay for assisting research, surveys, studies, and modeling and other technical work necessary for the development of a conservation and management plan under this section.

"(3) FEDERAL SHARE.—The amount of grants to any person (including a State, interstate, or regional agency or entity) under this subsection for a fiscal year shall not exceed 75 percent of the costs of such research, survey, studies, and work and shall be made on condition that the non-Federal share of such costs are provided from non-Federal sources.

"(h) GRANT REPORTING.—Any person (including a State, interstate, or regional agency or entity) that receives a grant under subsection (g) shall report to the Administrator not later than 18 months after receipt of such grant and biennially thereafter on the progress being made under this section.

"(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Administrator not to exceed $12,000,000 per fiscal year for each of fiscal years 1987, 1988, 1989, 1990, and 1991 for—

"(1) expenses related to the administration of management conferences under this section, not to exceed 10 percent of the amount appropriated under this subsection;

"(2) making grants under subsection (g); and

"(3) monitoring the implementation of a conservation and management plan by the management conference or by the Administrator, in any case in which the conference has been terminated.

The Administrator shall provide up to $5,000,000 per fiscal year of the sums authorized to be appropriated under this subsection to the Administrator of the National Oceanic and Atmospheric Administration to carry out subsection (j).

"(j) RESEARCH.—

"(1) PROGRAMS.—In order to determine the need to convene a management conference under this section or at the request of such a management conference, the Administrator shall coordinate and implement, through the National Marine Pollution Program Office and the National Marine Fisheries Service of the National Oceanic and Atmospheric Administration, as appropriate, for one or more estuarine zones—

"(A) a long-term program of trend assessment monitoring measuring variations in pollutant concentrations, marine ecology, and other physical or biological environmental parameter which may affect estuarine zones, to provide the Administrator the capacity to determine the potential and actual effects of alternative management strategies and measures;

"(B) a program of ecosystem assessment assisting in the development of (i) baseline studies which determine the state of estuarine zones and the effects of natural and anthropogenic changes, and (ii) predictive models capable of translating information on specific discharges or general pollutant loadings within estuarine zones into a set of probable effects on such zones;

"(C) a comprehensive water quality sampling program for the continuous monitoring of nutrients, chlorine, acid precipitation dissolved oxygen, and potentially toxic pollutants (including organic chemicals and metals) in estuarine zones, after consultation with interested State, local, interstate, or international agencies and review and analysis of all environmental sampling data presently collected from estuarine zones; and

"(D) a program of research to identify the movements of nutrients, sediments and pollutants through estuarine zones and the impact of nutrients, sediments, and pollutants on water quality, the ecosystem, and designated or potential uses of the estuarine zones.

"(2) REPORTS.—The Administrator, in cooperation with the Administrator of the National Oceanic and Atmospheric Administration, shall submit to the Congress no less often than biennially a comprehensive report on the activities authorized under this subsection including—

"(A) a listing of priority monitoring and research needs;

"(B) an assessment of the state and health of the Nation's estuarine zones, to the extent evaluated under this subsection;

"(C) a discussion of pollution problems and trends in pollutant concentrations with a direct or indirect effect on water quality, the ecosystem, and designated or potential uses of each estuarine zone, to the extent evaluated under this subsection; and

"(D) an evaluation of pollution abatement activities and management measures so far implemented to determine the degree of improvement toward the objectives expressed in subsection (b)(4) of this section.

"(k) DEFINITIONS.—For purposes of this section, the terms 'estuary' and 'estuarine zone' have the meanings such terms have in section 104(n)(4) of this Act, except that the term 'estuarine zone' shall also include associated aquatic ecosystems and those portions of tributaries draining into the estuary up to the historic height of migration of anadromous fish or the historic head of tidal influence, whichever is higher.".

SEC. 318. UNCONSOLIDATED QUATERNARY AQUIFER.

Notwithstanding any other provision of law, no person may—

(1) locate or authorize the location of a landfill, surface impoundment, waste pile, injection well, or land treatment facility over the Unconsolidated Quaternary Aquifer, or the recharge zone or streamflow source zone of such aquifer, in the Rockaway River Basin, New Jersey (as such aquifer and zones are described in the Federal Register, January 24, 1984, pages 2946-2948); or

(2) place or authorize the placement of solid waste in a landfill, surface impoundment, waste pile, injection well, or land treatment facility over such aquifer or zone.

This section may be enforced under sections 309 (a) and (b) of the Federal Water Pollution Control Act. For purposes of section 309(c) of such Act, a violation of this section shall be considered a violation of section 301 of the Federal Water Pollution Control Act.

TITLE IV—PERMITS AND LICENSES

SEC. 401. STORMWATER RUNOFF FROM OIL, GAS, AND MINING OPERATIONS.

(a) LIMITATION ON PERMIT REQUIREMENT.—Section 402(l) is amended by inserting "(1) AGRICULTURAL RETURN FLOWS.—" before "The Administrator" and by adding at the end thereof the following:

"(2) STORMWATER RUNOFF FROM OIL, GAS, AND MINING OPERATIONS.—The Administrator shall not require a permit under this section, nor shall the Administrator directly or indirectly require any State to require a permit, for discharges of stormwater runoff from mining operations or oil and gas exploration, production, processing, or treatment operations or transmission facilities, composed entirely of flows which are from conveyances or systems of conveyances (including but not limited to pipes, conduits, ditches, and channels) used for collecting and conveying precipitation runoff and which are not contaminated by contact with, or do not come into contact with, any overburden, raw material, intermediate products, finished product, by-product, or waste products located on the site of such operations.".

(b) CONFORMING AMENDMENTS.—Section 402(l) is further amended—

(1) by inserting "LIMITATION ON PERMIT REQUIREMENT.—" after "(l)"; and

(2) by indenting paragraph (1) of such section, as designated by subsection (a) of this section, and aligning such paragraph with paragraph (2) of such section, as added by such subsection (a).

SEC. 402. ADDITIONAL PRETREATMENT OF CONVENTIONAL POLLUTANTS NOT REQUIRED.

Section 402 is amended by adding at the end thereof the following new subsection:

"(m) ADDITIONAL PRETREATMENT OF CONVENTIONAL POLLUTANTS NOT REQUIRED.—To the extent a treatment works (as defined in section 212 of this Act) which is publicly owned is not meeting the requirements of a permit issued under this section for such treatment works as a result of inadequate design or operation of such treatment works, the Administrator, in issuing a permit under this section, shall not require pretreatment by a person introducing conventional pollutants identified pursuant to section 304(a)(4) of this Act into such treatment works other than pretreatment required to assure compliance with pretreatment standards under subsection (b)(8) of this section and section 307(b)(1) of this Act. Nothing in this subsection shall affect the Administrator's authority under sections 307 and 309 of this Act, affect State and local authority under sections 307(b)(4) and 510 of this Act, relieve such treatment works of its obligations to meet requirements established under this Act, or otherwise preclude such works from pursuing whatever feasible options are available to meet its responsibility to comply with its permit under this section.".

SEC. 403. PARTIAL NPDES PROGRAM.

(a) PARTIAL PERMIT PROGRAM.—Section 402 is amended by adding at the end the following:

"(n) PARTIAL PERMIT PROGRAM.—

"(1) STATE SUBMISSION.—The Governor of a State may submit under subsection (b) of this section a permit program for a portion of the discharges into the navigable waters in such State.

"(2) MINIMUM COVERAGE.—A partial permit program under this subsection shall cover, at a minimum, administration of a major category of the discharges into the navigable waters of the State or a major component of the permit program required by subsection (b).

"(3) APPROVAL OF MAJOR CATEGORY PARTIAL PERMIT PROGRAMS.—The Administrator may approve a partial permit program covering administration of a major category of discharges under this subsection if—

"(A) such program represents a complete permit program and covers all of the discharges under the jurisdiction of a department or agency of the State; and

"(B) the Administrator determines that the partial program represents a significant and identifiable part of the State program required by subsection (b).

"(4) APPROVAL OF MAJOR COMPONENT PARTIAL PERMIT PROGRAMS.—The Administrator may approve under this subsection a partial and phased permit program covering administration of a major component (including discharge categories) of a State permit program required by subsection (b) if—

"(A) the Administrator determines that the partial program represents a significant and identifiable part of the State program required by subsection (b); and

"(B) the State submits, and the Administrator approves, a plan for the State to assume administration by phases of the remainder of the State program required by subsection (b) by a specified date not more than 5 years after submission of the partial program under this subsection and agrees to make all reasonable efforts to assume such administration by such date.".

(b) RETURN OF STATE PERMIT PROGRAM TO ADMINISTRATOR.—

(1) IN GENERAL.—Section 402(c) is amended by adding at the end thereof the following new paragraph:

"(4) LIMITATIONS ON PARTIAL PERMIT PROGRAM RETURNS AND WITHDRAWALS.—A State may return to the Administrator administration, and the Administrator may withdraw under paragraph (3) of this subsection approval, of—

"(A) a State partial permit program approved under subsection (n)(3) only if the entire permit program being administered by the State department or agency at the time is returned or withdrawn; and

"(B) a State partial permit program approved under subsection (n)(4) only if an entire phased component of the permit program being administered by the State at the time is returned or withdrawn.".

(2) CONFORMING AMENDMENT.—Section 402(c)(1) is amended by striking out "as to those navigable waters" and inserting in lieu thereof "as to those discharges".

SEC. 404. ANTI-BACKSLIDING.

(a) GENERAL RULE.—Section 402 is amended by adding at the end thereof the following new subsection:

"(o) ANTI-BACKSLIDING.—

"(1) GENERAL PROHIBITION.—In the case of effluent limitations established on the basis of subsection (a)(1)(B) of this section, a permit may not be renewed, reissued, or modified on the basis of effluent guidelines promulgated under section 304(b) subsequent to the original issuance of such permit, to contain effluent limitations which are less stringent than the comparable effluent limitations in the previous permit. In the case of effluent limitations established on the basis of section 301(b)(1)(C) or section 303 (d) or (e), a permit may not be renewed, reissued, or modified to contain effluent limitations which are less stringent than the comparable effluent limitations in the previous permit except in compliance with section 303(d)(4).

"(2) EXCEPTIONS.—A permit with respect to which paragraph (1) applies may be renewed, reissued, or modified to contain a less stringent effluent limitation applicable to a pollutant if—

"(A) material and substantial alterations or additions to the permitted facility occurred after permit issuance which justify the application of a less stringent effluent limitation;

"(B)(i) information is available which was not available at the time of permit issuance (other than revised regulations, guidance, or test methods) and which would have justified the application of a less stringent effluent limitation at the time of permit issuance; or

"(ii) the Administrator determines that technical mistakes or mistaken interpretations of law were made in issuing the permit under subsection (a)(1)(B);

"(C) a less stringent effluent limitation is necessary because of events over which the permittee has no control and for which there is no reasonably available remedy;

"(D) the permittee has received a permit modification under section 301(c), 301(g), 301(h), 301(i), 301(k), 301(n), or 316(a); or

"(E) the permittee has installed the treatment facilities required to meet the effluent limitations in the previous permit and has properly operated and maintained the facilities but has nevertheless been unable to achieve the previous effluent limitations, in which case the limitations in the reviewed, reissued, or modified permit may reflect the level of pollutant control actually achieved (but shall not be less stringent than required by effluent guidelines in effect at the time of permit renewal, reissuance, or modification).

Subparagraph (B) shall not apply to any revised waste load allocations or any alternative grounds for translating water quality standards into effluent limitations, except where the cumulative effect of such revised allocations results in a decrease in the amount of pollutants discharged into the concerned waters, and such revised allocations are not the result of a discharger eliminating or substantially reducing its discharge of pollutants due to complying with the requirements of this Act or for reasons otherwise unrelated to water quality.

"(3) LIMITATIONS.—In no event may a permit with respect to which paragraph (1) applies be renewed, reissued, or modified to

contain an effluent limitation which is less stringent than required by effluent guidelines in effect at the time the permit is renewed, reissued, or modified. In no event may such a permit to discharge into waters be renewed, reissued, or modified to contain a less stringent effluent limitation if the implementation of such limitation would result in a violation of a water quality standard under section 303 applicable to such waters.".

(b) LIMITATIONS ON REVISION OF CERTAIN EFFLUENT LIMITATIONS.—Section 303(d) of the Act is amended by adding at the end thereof the following new paragraph:

"(4) LIMITATIONS ON REVISION OF CERTAIN EFFLUENT LIMITATIONS.—

"(A) STANDARD NOT ATTAINED.—For waters identified under paragraph (1)(A) where the applicable water quality standard has not yet been attained, any effluent limitation based on a total maximum daily load or other waste load allocation established under this section may be revised only if (i) the cumulative effect of all such revised effluent limitations based on such total maximum daily load or waste load allocation will assure the attainment of such water quality standard, or (ii) the designated use which is not being attained is removed in accordance with regulations established under this section.

"(B) STANDARD ATTAINED.—For waters identified under paragraph (1)(A) where the quality of such waters equals or exceeds levels necessary to protect the designated use for such waters or otherwise required by applicable water quality standards, any effluent limitation based on a total maximum daily load or other waste load allocation established under this section, or any water quality standard established under this section, or any other permitting standard may be revised only if such revision is subject to and consistent with the antidegradation policy established under this section.".

(c) STUDY.—The Administrator shall study—

(1) the extent to which States have reviewed, revised, and adopted water quality standards in accordance with section 24 of the Municipal Wastewater Treatment Construction Grant Amendments of 1981; and

(2) the extent to which modifications of permits issued under section 402(a)(1)(B) of the Federal Water Pollution Control Act for the purpose of reflecting any revisions to water quality standards should be encouraged or discouraged.

The Administrator shall submit a report on such study, together with recommendations, to Congress not later than 2 years after the date of the enactment of this Act.

(d) CONFORMING AMENDMENT.—Section 402(a)(1) is amended by inserting "(A)" after "either" and by inserting "(B)" after "this Act, or".

SEC. 405. MUNICIPAL AND INDUSTRIAL STORMWATER DISCHARGES.

(a) Section 402 is amended by adding at the end thereof the following new subsection:

"(p) MUNICIPAL AND INDUSTRIAL STORMWATER DISCHARGES.—

"(1) GENERAL RULE.—Prior to October 1, 1992, the Administrator or the State (in the case of a permit program approved under section 402 of this Act) shall not require a permit under this section for discharges composed entirely of stormwater.

"(2) EXCEPTIONS.—Paragraph (1) shall not apply with respect to the following stormwater discharges:

"(A) A discharge with respect to which a permit has been issued under this section before the date of the enactment of this subsection.

"(B) A discharge associated with industrial activity.

"(C) A discharge from a municipal separate storm sewer system serving a population of 250,000 or more.

"(D) A discharge from a municipal separate storm sewer system serving a population of 100,000 or more but less than 250,000.

"(E) A discharge for which the Administrator or the State, as the case may be, determines that the stormwater discharge contributes to a violation of a water quality standard or is a significant contributor of pollutants to waters of the United States.

"(3) PERMIT REQUIREMENTS.—

"(A) INDUSTRIAL DISCHARGES.—Permits for discharges associated with industrial activity shall meet all applicable provisions of this section and section 301.

"(B) MUNICIPAL DISCHARGE.—Permits for discharges from municipal storm sewers—

"(i) may be issued on a system- or jurisdiction-wide basis;

"(ii) shall include a requirement to effectively prohibit non-stormwater discharges into the storm sewers; and

"(iii) shall require controls to reduce the discharge of pollutants to the maximum extent practicable, including management practices, control techniques and system, design and engineering methods, and such other provisions as the Administrator or the State determines appropriate for the control of such pollutants.

"(4) PERMIT APPLICATION REQUIREMENTS.—

"(A) INDUSTRIAL AND LARGE MUNICIPAL DISCHARGES.—Not later than 2 years after the date of the enactment of this subsection, the Administrator shall establish regulations setting forth the permit application requirements for stormwater discharges described in paragraphs (2)(B) and (2)(C). Applications for permits for such discharges shall be filed no later than 3 years after such date of enactment. Not later than 4 years after such date of enactment, the Administrator or the State, as the case may be, shall issue or deny each such permit. Any such permit shall provide for compliance as expeditiously as practicable, but in no event later than 3 years after the date of issuance of such permit.

"(B) OTHER MUNICIPAL DISCHARGES.—Not later than 4 years after the date of the enactment of this subsection, the Administrator shall establish regulations setting forth the permit application requirements for stormwater discharges described in paragraph (2)(D). Applications for permits for such discharges shall be filed no later than 5 years after such date of enactment. Not later than 6 years after such date of enactment, the Administrator or the State, as the case may be, shall issue or deny each such permit. Any such permit shall provide for compliance as expeditiously as practicable, but in no event later than 3 years after the date of issuance of such permit.

"(5) STUDIES.—The Administrator, in consultation with the States, shall conduct a study for the purposes of—

"(A) identifying those stormwater discharges or classes of stormwater discharges for which permits are not required pursuant to paragraphs (1) and (2) of this subsection,

"(B) determining, to the maximum extent practicable, the nature and extent of pollutants in such discharges; and

"(C) establishing procedures and methods to control stormwater discharges to the extent necessary to mitigate impacts on water quality.

Not later than October 1, 1988, the Administrator shall submit to Congress a report on the results of the study described in subparagraphs (A) and (B). Not later than October 1, 1989, the Administrator shall submit to Congress a report on the results of the study described in subparagraph (C).

"(6) REGULATIONS.—Not later than October 1, 1992, the Administrator, in consultation with State and local officials, shall issue regulations (based on the results of the studies conducted under paragraph (5)) which designate stormwater discharges, other than those discharges described in paragraph (2), to be regulated to protect water quality and shall establish a comprehensive program to regulate such designated sources. The program shall, at a minimum, (A) establish priorities, (B) establish requirements for State stormwater management programs, and (C) establish expeditious deadlines. The program may include performance standards, guidelines, guidance, and management practices and treatment requirements, as appropriate.".

SEC. 406. SEWAGE SLUDGE.

(a) IDENTIFICATION AND REGULATION OF TOXIC POLLUTANTS.—Section 405(d) is amended—

(1) by inserting "(1) REGULATIONS.—" before "The Administrator, after";

(2) by striking "(1)", "(2)", and "(3)" and inserting in lieu thereof "(A)", "(B)", and "(C)", respectively; and

(3) by adding at the end the following new paragraphs:

"(2) IDENTIFICATION AND REGULATION OF TOXIC POLLUTANTS.—

"(A) ON BASIS OF AVAILABLE INFORMATION.—

"(i) PROPOSED REGULATIONS.—Not later than November 30, 1986, the Administrator shall identify those toxic pollutants which, on the basis of available information on their toxicity, persistence, concentration, mobility, or potential for exposure, may be present in sewage sludge in concentrations which may adversely affect public health or the environment, and propose regulations specifying acceptable management practices for sewage sludge containing each such toxic pollutant and establishing numerical limitations for each such pollutant for each use identified under paragraph (1)(A).

"(ii) FINAL REGULATIONS.—Not later than August 31, 1987, and after opportunity for public hearing, the Administrator shall promulgate the regulations required by subparagraph (A)(i).

"(B) OTHERS.—

"(i) PROPOSED REGULATIONS.—Not later than July 31, 1987, the Administrator shall identify those toxic pollutants not identified under subparagraph (A)(i) which may be present in sewage sludge in concentrations which may adversely affect public health or the environment, and propose regulations specifying acceptable management practices for sewage sludge containing each such toxic pollutant and establishing numerical limitations for each pollutant for each such use identified under paragraph (1)(A).

"(ii) FINAL REGULATIONS.—Not later than June 15, 1988, the Administrator shall promulgate the regulations required by subparagraph (B)(i).

"(C) REVIEW.—From time to time, but not less often than every 2 years, the Administrator shall review the regulations promulgated under this paragraph for the purpose of identifying additional toxic pollutants and promulgating regulations for such pol-

lutants consistent with the requirements of this paragraph.

"(D) MINIMUM STANDARDS; COMPLIANCE DATE.—The management practices and numerical criteria established under subparagraphs (A), (B), and (C) shall be adequate to protect public health and the environment from any reasonably anticipated adverse effects of each pollutant. Such regulations shall require compliance as expeditiously as practicable but in no case later than 12 months after their publication, unless such regulations require the construction of new pollution control facilities, in which case the regulations shall require compliance as expeditiously as practicable but in no case later than two years from the date of their publication.

"(3) ALTERNATIVE STANDARDS.—For purposes of this subsection, if, in the judgment of the Administrator, it is not feasible to prescribe or enforce a numerical limitation for a pollutant identified under paragraph (2), the Administrator may instead promulgate a design, equipment, management practice, or operational standard, or combination thereof, which in the Administrator's judgment is adequate to protect public health and the environment from any reasonably anticipated adverse effects of such pollutant. In the event the Administrator promulgates a design or equipment standard under this subsection, the Administrator shall include as part of such standard such requirements as will assure the proper operation and maintenance of any such element of design or equipment.

"(4) CONDITIONS ON PERMITS.—Prior to the promulgation of the regulations required by paragraph (2), the Administrator shall impose conditions in permits issued to publicly owned treatment works under section 402 of this Act or take such other measures as the Administrator deems appropriate to protect public health and the environment from any adverse effects which may occur from toxic pollutants in sewage sludge.

"(5) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this section is intended to waive more stringent requirements established by this Act or any other law.".

(b) MANNER OF SLUDGE DISPOSAL.—Section 405(e) is amended to read as follows:

"(e) MANNER OF SLUDGE DISPOSAL.—The determination of the manner of disposal or use of sludge is a local determination, except that it shall be unlawful for any person to dispose of sludge from a publicly owned treatment works or any other treatment works treating domestic sewage for any use for which regulations have been established pursuant to subsection (d) of this section, except in accordance with such regulations.".

(c) IMPLEMENTATION THROUGH PERMITS.—Section 405 is further amended by adding at the end thereof the following:

"(f) IMPLEMENTATION OF REGULATIONS.—

"(1) THROUGH SECTION 402 PERMITS.—Any permit issued under section 402 of this Act to a publicly owned treatment works or any other treatment works treating domestic sewage shall include requirements for the use and disposal of sludge that implement the regulations established pursuant to subsection (d) of this section, unless such requirements have been included in a permit issued under the appropriate provisions of subtitle C of the Solid Waste Disposal Act, part C of the Safe Drinking Water Act, the Marine Protection, Research and Sanctuaries Act of 1972, or the Clean Air Act, or under State permit programs approved by the Administrator, where the Administrator determines that such programs assure compliance with any applicable requirements of this section. Not later than December 15, 1986, the Administrator shall promulgate procedures for approval of State programs pursuant to this paragraph.

"(2) THROUGH OTHER PERMITS.—In the case of a treatment works described in paragraph (1) that is not subject to section 402 of this Act and to which none of the other above listed permit programs nor approved State permit authority apply, the Administrator may issue a permit to such treatment works solely to impose requirements for the use and disposal of sludge that implement the regulations established pursuant to subsection (d) of this section. The Administrator shall include in the permit appropriate requirements to assure compliance with the regulations established pursuant to subsection (d) of this section. The Administrator shall establish procedures for issuing permits pursuant to this paragraph.

"(g) STUDIES AND PROJECTS.—

"(1) GRANT PROGRAM; INFORMATION GATHERING.—The Administrator is authorized to conduct or initiate scientific studies, demonstration projects, and public information and education projects which are designed to promote the safe and beneficial management or use of sewage sludge for such purposes as aiding the restoration of abandoned mine sites, conditioning soil for parks and recreation areas, agricultural and horticultural uses, and other beneficial purposes. For the purposes of carrying out this subsection, the Administrator may make grants to State water pollution control agencies, other public or nonprofit agencies, institutions, organizations, and individuals. In cooperation with other Federal departments and agencies, other public and private agencies, institutions, and organizations, the Administrator is authorized to collect and disseminate information pertaining to the safe and beneficial use of sewage sludge.

"(2) AUTHORIZATION OF APPROPRIATIONS.—For the purposes of carrying out the scientific studies, demonstration projects, and public information and education projects authorized in this section, there is authorized to be appropriated for fiscal years beginning after September 30, 1986, not to exceed $5,000,000.".

(d) ENFORCEMENT.—(1) Section 308(a)(4) is amended by inserting "405," before "and 504".

(2) Section 505(f) is amended by striking out "or" before "(6)", and by inserting before the period "; or (7) a regulation under section 405(d) of this Act,".

(3) Section 509(b)(1)(E) is amended by striking out "or 306" and inserting in lieu thereof "306, or 405".

(e) REMOVAL CREDITS.—The part of the decision of Natural Resources Defense Council, Inc. v. U.S. Environmental Protection Agency, No. 84-3530 (3d. Cir. 1986), which addresses section 405(d) of the Federal Water Pollution Control Act is stayed until August 31, 1987, with respect to—

(1) those publicly owned treatment works the owner or operator of which received authority to revise pretreatment requirements under section 307(b)(1) of such Act before the date of the enactment of this section, and

(2) those publicly owned treatment works the owner or operator of which has submitted an application for authority to revise pretreatment requirements under such section 307(b)(1) which application is pending on such date of enactment and is approved before August 31, 1987.

The Administrator shall not authorize any other removal credits under such Act until the Administrator issues the regulations required by paragraph (2)(A)(ii) of section 405(d) of such Act, as amended by subsection (a) of this section.

(f) CONFORMING AMENDMENTS.—Section 405(d) is further amended—

(1) by inserting "REGULATIONS.—" after "(d)";

(2) by indenting paragraph (1) (as designated by subsection (a)(1) of this section) and aligning such paragraph with paragraph (3), as added by subsection (a)(3); and

(3) in such paragraph (1) by aligning subparagraphs (A), (B), and (C) (as designated by subsection (a)(2) of this section) with subparagraph (C) of paragraph (2), as added by subsection (a)(3) of this section.

SEC. 407. LOG TRANSFER FACILITIES.

(a) AGREEMENT.—The Administrator and Secretary of the Army shall enter into an agreement regarding coordination of permitting for log transfer facilities to designate a lead agency and to process permits required under sections 402 and 404 of the Federal Water Pollution Control Act, where both such sections apply, for discharges associated with the construction and operation of log transfer facilities. The Administrator and Secretary are authorized to act in accordance with the terms of such agreement to assure that, to the maximum extent practicable, duplication, needless paperwork and delay in the issuance of permits, and inequitable enforcement between and among facilities in different States, shall be eliminated.

(b) APPLICATIONS AND PERMITS BEFORE OCTOBER 22, 1985.—Where both of sections 402 and 404 of the Federal Water Pollution Control Act apply, log transfer facilities which have received a permit under section 404 of such Act before October 22, 1985, shall not be required to submit a new application for a permit under section 402 of such Act. If the Administrator determines that the terms of a permit issued on or before October 22, 1985, under section 404 of such Act satisfies the applicable requirements of sections 301, 302, 306, 307, 308, and 403 of such Act, a separate application for a permit under section 402 of such Act shall not thereafter be required. In any case where the Administrator demonstrates, after an opportunity for a hearing, that the terms of a permit issued on or before October 22, 1985, under section 404 of such Act do not satisfy the applicable requirements of sections 301, 302, 306, 307, 308, and 403 of such Act, modifications to the existing permit under section 404 of such Act to incorporate such applicable requirements shall be issued by the Administrator as an alternative to issuance of a separate new permit under section 402 of such Act.

(c) LOG TRANSFER FACILITY DEFINED.—For the purposes of this section, the term "log transfer facility" means a facility which is constructed in whole or in part in waters of the United States and which is utilized for the purpose of transferring commercially harvested logs to or from a vessel or log raft, including the formation of a log raft.

TITLE V—MISCELLANEOUS PROVISIONS

SEC. 501. AUDITS.

Section 501(d) is amended by inserting at the end the following new sentences: "For the purpose of carrying out audits and examinations with respect to recipients of Federal assistance under this Act, the Administrator is authorized to enter into noncompetitive procurement contracts with in-

dependent State audit organizations, consistent with chapter 75 of title 31, United States Code. Such contracts may only be entered into to the extent and in such amounts as may be provided in advance in appropriation Acts.".

SEC. 502. COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS.

(a) DEFINED AS A STATE.—Section 502(3) is amended by inserting "the Commonwealth of the Northern Mariana Islands," after "Samoa,".

(b) DEFINED AS PART OF UNITED STATES.—Section 311(a)(5) is amended by striking out "the Canal Zone," and inserting in lieu thereof "the Commonwealth of the Northern Mariana Islands,".

SEC. 503. AGRICULTURAL STORMWATER DISCHARGES.

Section 502(14) (relating to the definition of point source) is amended by inserting after "does not include" the following: "agricultural stormwater discharges and".

SEC. 504. PROTECTION OF INTERESTS OF UNITED STATES IN CITIZEN SUITS.

Section 505(c) is amended by adding at the end thereof the following new paragraph:

"(3) PROTECTION OF INTERESTS OF UNITED STATES.—Whenever any action is brought under this section in a court of the United States, the plaintiff shall serve a copy of the complaint on the Attorney General and the Administrator. No consent judgment shall be entered in an action in which the United States is not a party prior to 45 days following the receipt of a copy of the proposed consent judgment by the Attorney General and the Administrator.".

SEC. 505. JUDICIAL REVIEW AND AWARD OF FEES.

(a) LOCATION; DEADLINE FOR APPEAL.—Section 509(b)(1) is amended—

(1) by striking out "transacts such business" and inserting in lieu thereof, "transacts business which is directly affected by such action"; and

(2) by striking out "ninety" and "ninetieth" and inserting in lieu thereof "120" and "120th", respectively.

(b) VENUE; AWARD OF FEES.—Section 509(b) is amended by adding at the end thereof the following new paragraphs:

"(3) VENUE.—

"(A) SELECTION PROCEDURE.—If applications for review of the same agency action have been filed under paragraph (1) of this subsection in 2 or more Circuit Courts of Appeals of the United States and the Administrator has received written notice of the filing of one or more applications within 30 days or less after receiving written notice of the filing of the first application, then the Administrator shall promptly advise in writing the Administrative Office of the United States Courts that applications have been filed in 2 or more Circuit Courts of Appeals of the United States, and shall identify each court for which he has written notice that such applications have been filed within 30 days or less of receiving written notice of the filing of the first such application. Pursuant to a system of random selection devised for this purpose, the Administrative Office thereupon shall, within 3 business days of receiving such written notice from the Administrator, select the court in which the record shall be filed from among those identified by the Administrator. Upon notification of such selection, the Administrator shall promptly file the record in such court. For the purpose of review of agency action which has previously been remanded to the Administrator, the record shall be filed in the Circuit Court of Appeals of the United States which remanded such action.

"(B) ADMINISTRATIVE PROVISIONS.—Where applications have been filed under paragraph (1) of this subsection in two or more Circuit Courts of Appeals of the United States with respect to the same agency action and the record has been filed in one of such courts pursuant to subparagraph (A), the other courts in which such applications have been filed shall promptly transfer such applications to the Circuit Court of Appeals of the United States in which the record has been filed. Pending selection of a court pursuant to subparagraph (A), any court in which an application has been filed under paragraph (1) of this subsection may postpone the effective date of the agency action until 15 days after the Administrative Office has selected the court in which the record shall be filed.

"(C) TRANSFERS.—Any court in which an application with respect to any agency action has been filed under paragraph (1) of this subsection, including any court selected pursuant to subparagraph (A), may transfer such application to any other Circuit Court of Appeals of the United States for the convenience of the parties or otherwise in the interest of justice.

"(4) AWARD OF FEES.—In any judicial proceeding under this subsection, the court may award costs of litigation (including reasonable attorney and expert witness fees) to any prevailing or substantially prevailing party whenever it determines that such award is appropriate.".

(c) CONFORMING AMENDMENT FOR CITIZEN SUIT ACTIONS.—The first sentence of section 505(d) is amended by inserting "prevailing or substantially prevailing" before "party".

SEC. 506. INDIAN TRIBES.

Title V is amended by redesignating section 518, and any references thereto, as section 519 and by inserting after section 517 the following new section:

"SEC. 518. INDIAN TRIBES.

"(a) POLICY.—Nothing in this section shall be construed to affect the application of section 101(g) of this Act, and all of the provisions of this section shall be carried out in accordance with the provisions of such section 101(g). Indian tribes shall be treated as States for purposes of such section 101(g).

"(b) ASSESSMENT OF SEWAGE TREATMENT NEEDS; REPORT.—The Administrator, in cooperation with the Director of the Indian Health Service, shall assess the need for sewage treatment works to serve Indian tribes, the degree to which such needs will be met through funds allotted to States under section 205 of this Act and priority lists under section 216 of this Act, and any obstacles which prevent such needs from being met. Not later than one year after the date of the enactment of this section, the Administrator shall submit a report to Congress on the assessment under this subsection, along with recommendations specifying (1) how the Administrator intends to provide assistance to Indian tribes to develop waste treatment management plans and to construct treatment works under this Act, and (2) methods by which the participation in and administration of programs under this Act by Indian tribes can be maximized.

"(c) RESERVATION OF FUNDS.—The Administrator shall reserve each fiscal year beginning after September 30, 1986, before allotments to the States under section 205(e), one-half of one percent of the sums appropriated under section 207. Sums reserved under this subsection shall be available only for grants for the development of waste treatment management plans and for the construction of sewage treatment works to serve Indian tribes.

"(d) COOPERATIVE AGREEMENTS.—In order to ensure the consistent implementation of the requirements of this Act, an Indian tribe and the State or States in which the lands of such tribe are located may enter into a cooperative agreement, subject to the review and approval of the Administrator, to jointly plan and administer the requirements of this Act.

"(e) TREATMENT AS STATES.—The Administrator is authorized to treat an Indian tribe as a State for purposes of title II and sections 104, 106, 303, 305, 308, 309, 314, 319, 401, 402, and 404 of this Act to the degree necessary to carry out the objectives of this section, but only if—

"(1) the Indian tribe has a governing body carrying out substantial governmental duties and powers;

"(2) the functions to be exercised by the Indian tribe pertain to the management and protection of water resources which are held by an Indian tribe, held by the United States in trust for Indians, held by a member of an Indian tribe if such property interest is subject to a trust restriction on alienation, or otherwise within the borders of an Indian reservation; and

"(3) the Indian tribe is reasonably expected to be capable, in the Administrator's judgment, of carrying out the functions to be exercised in a manner consistent with the terms and purposes of this Act and of all applicable regulations.

Such treatment as a State may include the direct provision of funds reserved under subsection (c) to the governing bodies of Indian tribes, and the determination of priorities by Indian tribes, where not determined by the Administrator in cooperation with the Director of the Indian Health Service. The Administrator, in cooperation with the Director of the Indian Health Service, is authorized to make grants under title II of this Act in an amount not to exceed 100 percent of the cost of a project. Not later than 18 months after the date of the enactment of this section, the Administrator shall, in consultation with Indian tribes, promulgate final regulations which specify how Indian tribes shall be treated as States for purposes of this Act. The Administrator shall, in promulgating such regulations, consult affected States sharing common water bodies and provide a mechanism for the resolution of any unreasonable consequences that may arise as a result of differing water quality standards that may be set by States and Indian tribes located on common bodies of water. Such mechanism shall provide for explicit consideration of relevant factors including, but not limited to, the effects of differing water quality permit requirements on upstream and downstream dischargers, economic impacts, and present and historical uses and quality of the waters subject to such standards. Such mechanism should provide for the avoidance of such unreasonable consequences in a manner consistent with the objective of the Act.

"(f) GRANTS FOR NONPOINT SOURCE PROGRAMS.—The Administrator shall make grants to an Indian tribe under section 319 of this Act as though such tribe was a State. Not more than one-third of one percent of the amount appropriated for any fiscal year under section 319 may be used to make grants under this subsection. In addition to

the requirements of section 319, an Indian tribe shall be required to meet the requirements of paragraphs (1), (2), and (3) of subsection (d) of this section in order to receive such a grant.

"(g) ALASKA NATIVE ORGANIZATIONS.—No provision of this Act shall be construed to—

"(1) grant, enlarge, or diminish, or in any way affect the scope of the governmental authority, if any, of any Alaska Native organization, including any federally-recognized tribe, traditional Alaska Native council, or Native council organized pursuant to the Act of June 18, 1934 (48 Stat. 987), over lands or persons in Alaska;

"(2) create or validate any assertion by such organization or any form of governmental authority over lands or persons in Alaska; or

"(3) in any way affect any assertion that Indian country, as defined in section 1151 of title 18, United States Code, exists or does not exist in Alaska.

"(h) DEFINITIONS.—For purposes of this section, the term—

"(1) 'Federal Indian reservation' means all land within the limits of any Indian reservation under the jurisdiction of the United States Government, notwithstanding the issuance of any patent, and including rights-of-way running through the reservation; and

"(2) 'Indian tribe' means any Indian tribe, band, group, or community recognized by the Secretary of the Interior and exercising governmental authority over a Federal Indian reservation.".

SEC. 507. DEFINITION OF POINT SOURCE.

For purposes of the Federal Water Pollution Control Act, the term "point source" includes a landfill leachate collection system.

SEC. 508. SPECIAL PROVISIONS REGARDING CERTAIN DUMPING SITES.

(a) FINDING.—The Congress finds that the New York Bight Apex is no longer a suitable location for the ocean dumping of municipal sludge.

(b) GENERAL RULE.—Title I of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1401 et seq.) is further amended by inserting after section 104 the following new section:

"SPECIAL PROVISIONS REGARDING CERTAIN DUMPING SITES

"SEC. 104A. (a) NEW YORK BIGHT APEX.—(1) For purposes of this subsection:

"(A) The term 'Apex' means the New York Bight Apex consisting of the ocean waters of the Atlantic Ocean westward of 73 degrees 30 minutes west longitude and northward of 40 degrees 10 minutes north latitude.

"(B) The term 'Apex site' means that site within the Apex at which the dumping of municipal sludge occurred before October 1, 1983.

"(C) The term 'eligible authority' means any sewerage authority or other unit of State or local government that on November 2, 1983, was authorized under court order to dump municipal sludge at the Apex site.

"(2) No person may apply for a permit under this title in relation to the dumping of, or the transportation for purposes of dumping, municipal sludge within the Apex unless that person is an eligible authority.

"(3) The Administrator may not issue, or renew, any permit under this title that authorizes the dumping of, or the transportation for purposes of dumping, municipal sludge within the Apex after the earlier of—

"(A) December 15, 1987; or

"(B) the day determined by the Administrator to be the first day on which municipal sludge generated by eligible authorities can reasonably be dumped at a site designated under section 102 other than a site within the Apex.

"(b) RESTRICTION ON USE OF THE 106-MILE SITE.—The Administrator may not issue or renew any permit under this title which authorizes any person, other than a person that is an eligible authority within the meaning of subsection (a)(1)(C), to dump, or to transport for the purposes of dumping, municipal sludge within the site designated under section 102(c) by the Administrator and known as the '106-Mile Ocean Waste Dump Site' (as described in 49 F.R. 19005).".

SEC. 509. OCEAN DISCHARGE RESEARCH PROJECTS.

(a) IN GENERAL.—Notwithstanding any other provision of law, the Administrator is authorized to issue a research permit to the Orange County, California, Sanitation Districts for the discharge of preconditioned municipal sewage sludge into the ocean for the purpose of enabling research to be conducted in assessing and analyzing the effects of disposing of sewage sludge by pipeline into ocean waters—

(1) if the Administrator is satisfied that such local governmental agency is actively pursuing long-term land-based options for the handling of its sludge with special emphasis on remote disposal alternatives set forth in the 1980 LA/OMA sludge management project and on reuse of sludge or use of recycled sludge; and

(2) if the Administrator determines that there is no likelihood of an unacceptable adverse effect on the environment as a result of issuance of such permit and that such permit would meet the requirements of paragraph (2) of section 301(h) of the Federal Water Pollution Control Act, as amended by this Act, and of the sentences following the first sentence of such section if such permit were being issued under such section.

(b) PERMIT TERMS.—

(1) PERIOD.—The permit for the discharge of sludge shall be for a period of 5 years commencing on the date of such discharge and shall not be extended or renewed.

(2) MONITORING.—Such permit shall provide for monitoring (including whole effluent monitoring) of permitted discharges and other discharges into the ocean in the same area and the effects of such discharges (including cumulative effects) in conformance with requirements established by the Administrator, after consultation with appropriate Federal and State agencies, and for the reporting of such monitoring to Congress and the Administrator every 6 months.

(3) VOLUME OF DISCHARGE.—Such permit shall provide that the volume of such local agency's sludge disposed of by such experimental pipeline shall be no more than one and one-half times that being disposed of by such remote disposal and alternatives for the reuse of sludge and the use of recycled sludge. In no event shall the agency dispose of more than 50 percent of its sludge by the pipeline.

(4) TERMINATION.—The permit shall provide for termination of the permit if the Administrator determines that the disposal of sewage sludge is resulting in an unacceptable adverse impact on fish, shellfish, and wildlife. The Administrator may terminate a permit issued under this section if the Administrator determines that there has been a decline in ambient water quality of the receiving waters during the period of the permit even if a direct cause and effect relationship cannot be shown. If the effluent from a source with a permit issued under this section is contributing to a decline in ambient water quality of the receiving waters, the Administrator shall terminate such permit.

(c) LIMITATION ON PRECEDENCE.—The facts and circumstances described in subsection (a) present a unique situation which will not establish a precedent for the relaxation of the requirements of the Federal Water Pollution Control Act applicable to similarly situated discharges.

(d) REPORT.—Such districts shall report the results of the program and an analysis of such program to Congress under this section not later than four and one-half years after issuance of the permit.

SEC. 510. LIMITATION ON DISCHARGE OF RAW SEWAGE BY NEW YORK CITY.

(a) IN GENERAL.—

(1) NORTH RIVER PLANT.—If the wastewater treatment plant identified in the consent decree as the North River plant has not achieved advanced preliminary treatment as required under the terms of the consent decree by August 1, 1986, the city of New York shall not discharge raw sewage from the drainage area of such plant (as defined in the consent decree) into navigable waters after such date in an amount which is greater for any 30-day period than an amount equal to 30 times the average daily amount of raw sewage discharged from such drainage area during the 12-month period ending on the earlier of the date on which such plant becomes operational or March 15, 1986 (as determined by the Administrator), except as provided in subsection (b).

(2) RED HOOK PLANT.—If the wastewater treatment plant identified in the consent decree as the Red Hook plant has not achieved advanced preliminary treatment as required under the terms of the consent decree by August 1, 1987, the city of New York shall not discharge raw sewage from the drainage area of such plant (as defined in the consent decree) into navigable waters after such date in an amount which is greater for any 30-day period than an amount equal to 30 times the average daily amount of raw sewage discharged from such drainage area during the 12-month period ending on the earlier of the date on which such plant becomes operational or March 15, 1987 (as determined by the Administrator), except as provided in subsection (b).

(b) WAIVERS.—

(1) INTERRUPTION OF PLANT OPERATION.—In the event of any significant interruption in the operation of the North River plant or the Red Hook plant caused by an event described in subparagraph (A), (B), or (C) of paragraph (5) occurring after the applicable deadline established under subsection (a), the Administrator shall waive the limitation of subsection (a) with respect to such plant, but only to such extent and for such limited period of time as may be reasonably necessary for the city of New York to resume operation of such plant.

(2) INCREASED PRECIPITATION.—In the event that the volume of precipitation occurring after the applicable deadline established under subsection (a) causes the discharge of raw sewage to exceed the limitation under subsection (a), the Administrator shall waive the limitation of subsection (a) with respect to either or both such plants, but only to such extent and for such limited period of time as the Administrator determines to be necessary to take into account

the increased discharge caused by such volume of precipitation.

(3) VARIATIONS IN CERTAIN NORTH RIVER DRAINAGE AREA DISCHARGES.—In the event that an increase in discharges from the North River drainage area constituting a violation of subsection (a)(1) is due to a random or seasonal variation, and that any sewer hookup occurring, or permit for a sewer hookup granted, after July 31, 1986, is not responsible for such violation, the Administrator shall waive the limitation of subsection (a)(1), but only to such extent and for such limited period of time as the Administrator determines to be reasonably necessary to take into account such random or seasonal variation.

(4) VARIATIONS IN CERTAIN RED HOOK DRAINAGE AREA DISCHARGES.—In the event that an increase in discharges from the Red Hook drainage area constituting a violation of subsection (a)(2) is due to a random or seasonal variation, and that any sewer hookup occurring, or permit for a sewer hookup granted, after July 31, 1987, is not responsible for such violation, the Administrator shall waive the limitation of subsection (a)(2), but only to such extent and for such limited period of time as the Administrator determines to be reasonably necessary to take into account such random or seasonal variation.

(5) CIRCUMSTANCES BEYOND CITY'S CONTROL.—The Administrator shall extend either deadline under paragraph (1) or (2) of subsection (a) to such extent and for such limited period of time as may be reasonably required to take into account any—

(A) act of war,

(B) unanticipated grave natural disaster or other natural phenomenon of an exceptional, inevitable, and irresistible character, the effects of which could not have been prevented or avoided by the exercise of due care or foresight, or

(C) other circumstances beyond the control of the city of New York, except such circumstances shall not include (i) the unavailability of Federal funds under section 201 of the Federal Water Pollution Control Act, (ii) the unavailability of funds from the city of New York or the State of New York, or (iii) a policy decision made by the city of New York or the State of New York to delay the achievement of advanced preliminary treatment at the North River plant or Red Hook plant beyond the applicable deadline set forth in subsection (a).

(c) PENALTIES.—Except as otherwise provided in subsection (b), any violation of subsection (a) shall be considered to be a violation of section 301 of the Federal Water Pollution Control Act, and all provisions of such Act relating to violations of such section 301 shall apply.

(d) CONSENT DECREE DEFINED.—For purposes of this section, the term "consent decree" means the consent decree entered into by the Environmental Protection Agency, the city of New York, and the State of New York, on December 30, 1982, relating to construction and operation of the North River and Red Hook wastewater treatment plants.

(e) COOPERATION.—The Administrator shall work with the city of New York to eliminate the discharge of raw sewage by such city at the earliest practicable date.

(f) SAVINGS CLAUSE.—Nothing in this section shall be construed as modifying the terms of the consent decree.

(g) SENSE OF CONGRESS.—It is the sense of Congress that the Administrator should not agree to any further modification of the consent decree with respect to the schedule for achieving advanced preliminary treatment.

(h) TERMINATION DATES.—

(1) NORTH RIVER PLANT.—The provisions of this section shall remain in effect with respect to the North River drainage area until such time as the North River plant has achieved advanced preliminary treatment (as defined in the consent decree) for a period of six consecutive months.

(2) RED HOOK PLANT.—The provisions of this section shall remain in effect with respect to the Red Hook drainage area until such time as the Red Hook plant has achieved advanced preliminary treatment (as defined in the consent decree) for a period of six consecutive months.

(i) MONITORING ACTIVITIES.—The Administrator shall promptly establish and carry out a program within available funds to implement the monitoring activities which may be required under subsection (a).

(j) ESTABLISHMENT OF METHODOLOGIES.—The Administrator shall establish the methodologies, data base, and any other information required for making determinations under subsection (b)—

(1) for the North River drainage area (as defined in the consent decree) by July 31, 1986, unless the requirements of subsection (h)(1) have been satisfied, and

(2) for the Red Hook drainage area (as defined by the consent decree) by July 31, 1987, unless the requirements of subsection (h)(2) have been satisfied.

(k) VIOLATIONS.—In carrying out this section, if the Administrator finds that a violation of subsection (a) has occurred, the Administrator shall also determine, within 30 days after such finding, whether a provision of subsection (b) applies. If the Administrator requires information from the city of New York in order to determine whether a provision of subsection (b) applies, the Administrator shall request such information. If the city of New York does not supply the information requested by the Administrator, the Administrator shall determine that subsection (b) does not apply. The city of New York shall be responsible only for such expenses as are necessary to provide such requested information. Enforcement action pursuant to subsection (c) shall be commenced at the end of such 30 days unless a provision of subsection (b) applies.

SEC. 511. STUDY OF DE MINIMIS DISCHARGES.

(a) STUDY.—The Administrator shall conduct a study of discharges of pollutants into the navigable waters and their regulation under the Federal Water Pollution Control Act to determine whether or not there are discharges of pollutants into such waters in amounts which, in terms of volume, concentration, and type of pollutant, are not significant and to determine the most effective and appropriate methods of regulating any such discharges.

(b) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Administrator shall submit to the Committee on Public Works and Transportation of the House of Representatives and the Committee on Environment and Public Works of the Senate a report on the results of such study along with recommendations and findings concerning the most effective and appropriate methods of regulating any discharges of pollutants into the navigable waters in amounts which the Administrator determines under such study to be not significant.

SEC. 512. STUDY OF EFFECTIVENESS OF INNOVATIVE AND ALTERNATIVE PROCESSES AND TECHNIQUES.

(a) EFFECTIVENESS STUDY.—The Administrator shall study the effectiveness on waste treatment of innovative and alternative wastewater treatment processes and techniques referred to in section 201(g)(5) of the Federal Water Pollution Control Act which have been utilized in treatment works constructed under such Act. In conducting such study, the Administrator shall compile information, by State, on the types of such processes and techniques utilized, on the number of facilities constructed with such processes and techniques, and a description of such processes and techniques which have not performed to design standards. The Administrator shall also determine which States have not obligated the full amount set aside under section 205(i) of such Act for such processes and techniques and the reasons for each such State's failure to make such obligations.

(b) REPORT.—Not later than one year after the date of the enactment of this Act, the Administrator shall submit to the Committee on Public Works and Transportation of the House of Representatives and the Committee on Environment and Public Works of the Senate a report on the results of such study, along with recommendations for providing more effective incentives for innovative and alternative wastewater treatment processes and techniques.

SEC. 513. STUDY OF TESTING PROCEDURES.

(a) STUDY.—The Administrator shall study the testing procedures for analysis of pollutants established under section 304(h) of the Federal Water Pollution Control Act. Such study shall include, but not be limited to, an analysis of the adequacy and standardization of such procedures. In conducting the analysis of the standardization of such procedures, the Administrator shall consider the extent to which such procedures are consistent with comparable procedures established under other Federal laws.

(b) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Administrator shall submit a report on the results of the study conducted under this subsection, together with recommendations for modifying the test procedures referred to in subsection (a) to improve their effectiveness, to the Committee on Public Works and Transportation of the House of Representatives and the Committee on Environment and Public Works of the Senate.

SEC. 514. STUDY OF PRETREATMENT OF TOXIC POLLUTANTS.

(a) STUDY.—The Administrator shall study—

(1) the adequacy of data on environmental impacts of toxic industrial pollutants discharged from publicly owned treatment works;

(2) the extent to which secondary treatment at publicly owned treatment works removes toxic pollutants;

(3) the capability of publicly owned treatment works to revise pretreatment requirements under section 307(b)(1) of the Federal Water Pollution Control Act;

(4) possible alternative regulatory strategies for protecting the operations of publicly owned treatment works from industrial discharges, and shall evaluate the extent to which each such strategy identified may be expected to achieve the goals of this Act;

(5) for each such alternative regulatory strategy, the extent to which removal of toxic pollutants by publicly owned treat-

ment works results in contamination of sewage sludge and the extent to which pretreatment requirements may prevent such contamination or improve the ability of publicly owned treatment works to comply with sewage sludge criteria developed under section 405 of the Federal Water Pollution Control Act; and

(6) the adequacy of Federal, State, and local resources to establish, implement, and enforce multiple pretreatment limits for toxic pollutants for each such alternative strategy.

(b) REPORT.—Not later than 4 years after the date of the enactment of this Act, the Administrator shall submit a report on the results of such study along with recommendations for improving the effectiveness of pretreatment requirements to the Committee on Public Works and Transportation of the House of Representatives and the Committee on Environment and Public Works of the Senate.

SEC. 515. STUDIES OF WATER POLLUTION PROBLEMS IN AQUIFERS.

(a) STUDIES.—The Administrator, in conjunction with State and local agencies and after providing an opportunity for full public participation, shall conduct studies for the purpose of identifying existing and potential point and nonpoint sources of pollution, and of identifying measures and practices necessary to control such sources of pollution, in the following ground water systems and aquifers:

(1) the ground water system of the Upper Santa Cruz Basin and the Avra-Altar Basin of Pima, Pinal, and Santa Cruz Counties, Arizona;

(2) the Spokane-Rathdrum Valley Aquifer, Washington and Idaho;

(3) the Nassau and Suffolk Counties Aquifer, New York;

(4) the Whidbey Island Aquifer, Washington;

(5) the Unconsolidated Quaternary Aquifer, Rockaway River area, New Jersey;

(6) contaminated ground water under Litchfield, Hartford, Fairfield, Tolland, and New Haven counties, Connecticut; and

(7) the Sparta Aquifer, Arkansas.

(b) REPORTS.—Not later than 2 years after the date of the enactment of this Act, the Administrator shall submit to Congress a report on the studies conducted under this section.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $7,000,000 for fiscal years beginning after September 30, 1986, to carry out this section.

SEC. 516. GREAT LAKES CONSUMPTIVE USE STUDY.

(a) STUDY OF CONSUMPTIVE USES.—In recognition of the serious impacts on the Great Lakes environment that may occur as a result of increased consumption of Great Lakes water, including loss of wetlands and reduction of fish spawning and habitat areas, as well as serious economic losses to vital Great Lakes industries, and in recognition of the national goal to provide environmental protection and preservation of our natural resources while allowing for continued economic growth, the Secretary of the Army in cooperation with the Administrator, other interested departments, agencies, and instrumentalities of the United States, and the 8 Great Lakes States, is authorized to conduct a study of the effects of Great Lakes water consumption on economic growth and environmental quality in the Great Lakes region and of control measures that can be implemented to reduce the quantity of water consumed.

(b) MATTERS INCLUDED.—The study authorized by this section shall at a minimum include the following:

(1) a review of the methodologies used to forecast Great Lakes consumptive uses, including an analysis of the sensitivity of key variables affecting such uses;

(2) an analysis of the effect that enforcement of provisions of the Federal Water Pollution Control Act relating to thermal discharges has had on consumption of Great Lakes water;

(3) an analysis of the effect of laws, regulations, and national policy objectives on consumptive uses of Great Lakes water used in manufacturing;

(4) an analysis of the associated environmental impacts and of the economic effects on industry and other interests in the Great Lakes region associated with individual consumptive use control strategies; and

(5) a summary discussion containing recommendations for methods of controlling consumptive uses which methods maximize benefits to the Great Lakes ecosystem and also provide for continued full economic growth for consuming industries as well as other industries which depend on the use of Great Lakes water.

(c) GREAT LAKES STATES DEFINED.—For purposes of this section, the term "Great Lakes States" means Minnesota, Wisconsin, Illinois, Ohio, Michigan, Indiana, Pennsylvania, and New York.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for fiscal years beginning after September 30, 1986, $750,000 to carry out this section. Sums appropriated under this section shall remain available until expended.

SEC. 517. SULFIDE CORROSION STUDY.

(a) STUDY.—The Administrator shall conduct a study of the corrosive effects of sulfides in collection and treatment systems, the extent to which the uniform imposition of categorical pretreatment standards will exacerbate such effects, and the range of available options to deal with such effects.

(b) CONSULTATION.—The study required by this section shall be conducted in consultation with the Los Angeles City and County sanitation agencies.

(c) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Administrator shall submit a report on the results of the study, together with recommendations for measures to reduce the corrosion of treatment works, to the Committee on Public Works and Transportation of the House of Representatives and the Committee on Environment and Public Works of the Senate.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $1,000,000 to carry out this section for fiscal years beginning after September 30, 1986.

SEC. 518. STUDY OF RAINFALL INDUCED INFILTRATION INTO SEWER SYSTEMS.

(a) STUDY.—The Administrator shall study problems associated with rainfall induced infiltration into wastewater treatment sewer systems. As part of such study, the Administrator shall study appropriate methods of regulating rainfall induced infiltration into the sewer system of the East Bay Municipal Utility District, California.

(b) REPORT.—Not later than one year after the date of the enactment of this Act, the Administrator shall submit to Congress a report on the results of such study, along with recommendations on reasonable methods to reduce such infiltration.

SEC. 519. DAM WATER QUALITY STUDY.

The Administrator, in cooperation with interested States and Federal agencies, shall study and monitor the effects on the quality of navigable waters attributable to the impoundment of water by dams. The results of such study shall be submitted to Congress not later than December 31, 1987.

SEC. 520. STUDY OF POLLUTION IN LAKE PEND OREILLE, IDAHO.

The Administrator shall conduct a comprehensive study of the sources of pollution in Lake Pend Oreille, Idaho, and the Clark Fork River and its tributaries, Idaho, Montana, and Washington, for the purpose of identifying the sources of such pollution. In conducting such study, the Administrator shall consider existing studies, surveys, and test results concerning such pollution. The Administrator shall report to Congress the findings and recommendations concerning the study conducted under this section.

SEC. 521. SAN DIEGO, CALIFORNIA.

(a) PURPOSE.—The purpose of this section is to protect the economy, public health, environment, surface water and public beaches, and water quality of the city of San Diego, California, and surrounding areas, which are endangered and are being polluted by raw sewage emanating from the city of Tijuana, Mexico.

(b) CONSTRUCTION GRANTS.—Upon approval of the necessary plans and specifications, the Administrator is authorized to make grants to the Secretary of State, acting through the American Section of the International Boundary and Water Commission (hereinafter in this section referred to as the "Commission"), or any other Federal agency or any other appropriate commission or entity designated by the President. Such grants shall be for construction of a project consisting of—

(1) defensive treatment works to protect the residents of the city of San Diego, California, and surrounding areas from pollution resulting from any inadequacies or breakdowns in wastewater treatment works and systems in Mexico; and

(2) treatment works in the city of San Diego, California, to provide primary or more advanced treatment of municipal sewage and industrial waste from Mexico, including the city of Tijuana, Mexico.

(c) LIMITATION ON GRANTS.—Notwithstanding subsection (b), the Administrator may make grants for construction of treatment works described in subsection (b)(2) only if, after public notice and comment, the Administrator determines that treatment works in Mexico, in conjunction with any defensive treatment works constructed under this or any other Act, are not sufficient to protect the residents of the city of San Diego, California, and surrounding areas from water pollution originating in Mexico.

(d) OPERATION AND MAINTENANCE.—The Commission or such other agency, commission, or entity as may be designated under subsection (b) is authorized to operate and maintain any treatment works constructed under subsection (b) in order to accomplish the purposes of this section.

(e) APPROVAL OF PLANS.—Any treatment works for which a grant is made under this section shall be constructed in accordance with plans developed by the Commission or such other agency, commission, or entity as may be designated under subsection (b), in consultation with the city of San Diego, and approved by the Administrator to meet the construction standards which would be ap-

plicable if such treatment works were being constructed under title II of the Federal Water Pollution Control Act.

(f) FEDERAL SHARE.—Construction of the treatment works under subsection (b) shall be at full Federal expense less any costs paid by the State of California and less any costs paid by the Government of Mexico as a result of agreement negotigated with the United States.

(g) OCEAN OUTFALL PERMIT.—Notwithstanding section 301(j) of the Federal Water Pollution Control Act, upon application of the city of San Diego, California, the Administrator may issue a permit under section 301(h) of such Act which modifies the requirements of section 301(b)(1)(B) of such Act to permit the discharge of pollutants for any ocean outfall constructed with Federal assistance under this section if the Administrator finds that issuing such permit is in the best interests of achieving the goals and requirements of such Act. The Administrator may waive the requirements of section 301(h)(5) of such Act with respect to the issuance of such permit if the Administrator finds that such waiver is in the best interests of achieving the goals and requirements of such Act.

(h) TREATMENT OF SAN DIEGO SEWAGE.—If any treatment works constructed pursuant to this section becomes no longer necessary to provide protection from pollution originating in Mexico, the city of San Diego, California, may use such treatment works to treat municipal and individual waste originating in the city of San Diego and surrounding areas if the city of San Diego enters into a binding agreement with the Administrator to pay to the United States 45 percent of the costs incurred in the construction of such treatment works.

(i) DEFINITION.—For purposes of this section, the terms "construction" and "treatment works" have the meanings such terms have under section 212 of the Federal Water Pollution Control Act.

(j) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for fiscal years beginning after September 30, 1986, such sums as may be necessary to the Administrator to make grants under this section and such sums as may be necessary to the Commission or such other agency, commission, or entity as the President may designate under subsection (b), to carry out this section.

SEC. 522. OAKWOOD BEACH AND RED HOOK PROJECTS, NEW YORK.

(a) RELOCATION OF NATURAL GAS FACILITIES.—Notwithstanding any provision of the Federal Water Pollution Control Act, the Administrator shall pay, to the extent provided in appropriation Acts, in the same proportion as the Federal share of other project costs, all expenses for the relocation of facilities for the distribution of natural gas with respect to the entire wastewater treatment works known as the Oakwood Beach (EPA Grant Numbered 360392) and Red Hook (EPA Grant Numbered 360394) projects, New York.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for fiscal years beginning after September 30, 1986, not to exceed $7,000,000 to carry out this section.

SEC. 523. BOSTON HARBOR AND ADJACENT WATERS.

(a) GRANTS.—The Administrator shall make grants to the Massachusetts Water Resource Authority for purposes of—

(1) assessing the principal factors having an adverse effect on the environmental quality of Boston Harbor and its adjacent waters;

(2) developing and implementing a management program to improve the water quality of such Harbor and waters; and

(3) constructing necessary waste water treatment works for providing secondary treatment for the areas served by such authority.

(b) FEDERAL SHARE.—The Federal share of projects described in subsection (a) shall not exceed 75 percent of the cost of construction thereof.

(c) EMERGENCY IMPROVEMENTS.—The Administrator is authorized and directed to make grants to the Massachusetts Water Resource Authority for a project to undertake emergency improvements at the Deer Island Waste Water Treatment Plant in Boston, Massachusetts. The Federal share of such project shall not exceed 75 percent of the cost of carrying out such improvements.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $100,000,000 to carry out this section for fiscal years beginning after September 30, 1986, to remain available until expended. Such sums shall be in addition to and not in lieu of any other amounts authorized to be appropriated under title II of the Federal Water Pollution Control Act.

SEC. 524. WASTEWATER RECLAMATION DEMONSTRATION.

(a) AUTHORITY TO MAKE GRANTS.—The Administrator is authorized to make a grant to the San Diego Water Reclamation Agency, California, to demonstrate and field test for public use innovative processes which advance the technology of wastewater reclamation and which promote the use of reclaimed wastewater.

(b) FEDERAL SHARE.—The Federal share of grants made under this section shall be 85 percent of the costs of conducting such demonstration and field test.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated not to exceed $2,000,000 to carry out this section for fiscal years beginning after September 30, 1986.

SEC. 525. DES MOINES, IOWA.

(a) GRANT.—The Administrator is authorized to make a grant to the City of Des Moines, Iowa, for construction of the Central Sewage Treatment Plant component of the Des Moines, Iowa, metropolitan area project. The Federal share of such project shall be 75 percent of the cost of construction.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section not to exceed $50,000,000 for fiscal years beginning after September 30, 1986. Such sums shall be in addition to and not in lieu of any other amounts authorized to be appropriated under title II of the Federal Water Pollution Control Act.

SEC. 526. STUDY OF De MINIMIS DISCHARGES.

(a) STUDY.—The Administrator shall conduct a study of discharges of pollutants into the navigable waters and their regulation under the Federal Pollution Control Act to determine whether or not there are discharges of pollutants into such waters in amounts which, in terms of volume, concentration, and type of pollutant, are not significant and to determine the most effective and appropriate methods of regulating any such discharges.

(b) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Administrator shall submit to the Committee on Public Works and Transportation of the House of Representatives and the Committee on Environment and Public Works of the Senate a report on the results of such study along with recommendations and findings concerning the most effective and appropriate methods of regulating any discharges of pollutants into the navigable waters in amounts which the Administrator determines under such study to be not significant.

SEC. 527

The Water Resources Development Act of 1986 is amended by adding the following after the last sentence in Section 103(i): "For the purpose of this section, the term "lands, easements, rights-of-way, dredged material disposal areas, and relocations" shall not pertain to railroad relocations."

DISABILITY COMPENSATION

MURKOWSKI (AND STAFFORD) AMENDMENT NO. 2

(Referred to the Committee on Veterans' Affairs.)

Mr. MURKOWSKI (for himself and Mr. STAFFORD) submitted an amendment intended to be proposed by them to the bill (S. 240) to amend title 38, United States Code, to increase the rates of disability compensation for disabled veterans and the rates of dependency and indemnity compensation for surviving spouses and children of veterans; as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE AND REFERENCES

(a) SHORT TITLE.—This Act may be cited as the "Veterans' Compensation Cost-of-Living Adjustment Act of 1987".

(b) REFERENCES.—Except as otherwise expressly provided, whenever in this Act an amendment is expressed in terms of an amendment to a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

SEC. 2. DISABILITY COMPENSATION

(a) IN GENERAL.—Section 314 is amended—

(1) by striking out "$69" in subsection (a) and inserting in lieu thereof "$72";

(2) by striking out "$128" in subsection (b) and inserting in lieu thereof "$133";

(3) by striking out "$194" in subsection (c) and inserting in lieu thereof "$202";

(4) by striking out "$278" in subsection (d) and inserting in lieu thereof "$289";

(5) by striking out "$394" in subsection (e) and inserting in lieu thereof "$410";

(6) by striking out "$496" in subsection (f) and inserting in lieu thereof "$516";

(7) by striking out "$626" in subsection (g) and inserting in lieu thereof "$652";

(8) by striking out "$724" in subsection (h) and inserting in lieu thereof "$754";

(9) by striking out "$815" in subsection (i) and inserting in lieu thereof "$848";

(10) by striking out "$1,355" in subsection (j) and inserting in lieu thereof "$1,411";

(11) by striking out "$1,684" and "$2,360" in subsection (k) and inserting in lieu thereof "$1,753" and "$2,457", respectively;

(12) by striking out "$1,684" in subsection (l) and inserting in lieu thereof "$1,753";

(13) by striking out "$1,856" in subsection (m) and inserting in lieu thereof "$1,932";

(14) by striking out "$2,111" in subsection (n) and inserting in lieu thereof "$2,198";

(15) by striking out "$2,360" each place it appears in subsections (o) and (p) and inserting in lieu thereof "$2,457";

(16) by striking out "$1,013" and "$1,509" in subsection (r) and inserting in lieu thereof "$1,055" and "$1,571"; respectively; and

(17) by striking out "$1,516" in subsection (s) and inserting in lieu thereof "$1,578".

(b) SPECIAL RULE.—The Administrator of Veterans' Affairs may adjust administratively, consistent with the increases authorized by this section, the rates of disability compensation payable to persons within the purview of section 10 of Public Law 85-857 who are not in receipt of compensation payable pursuant to chapter 11 of title 38, United States Code.

SEC. 3. ADDITIONAL COMPENSATION FOR DEPENDENTS

Section 315(1) ia amended—

(1) by striking out "$82" in clause (A) and inserting in lieu thereof "$85";

(2) by striking out "$138" and "$44" in clause (B) and inserting in lieu thereof "$144" and "$46", respectively;

(3) by striking out "$57" and "$44" in clause (C) and inserting in lieu thereof "$59" and "$46", respectively;

(4) by striking out "$67" in clause (D) and inserting in lieu thereof "$70";

(5) by striking out "$149" in clause (E) and inserting in lieu thereof "$155"; and

(6) by striking out "$126" in clause (F) and inserting in lieu thereof "$131".

SEC. 4. CLOTHING ALLOWANCE FOR CERTAIN DISABLED VETERANS

Section 362 is amended by striking out "$365" and inserting in lieu thereof "$380".

SEC. 5. DEPENDENCY AND INDEMNITY COMPENSATION FOR SURVIVING SPOUSES

Section 411 is amended—

(1) by striking out the table in subsection (a) and inserting in lieu thereof the following:

"Pay grade	Monthly rate	Pay grade	Monthly rate
E-1	$518	W-4	$743
E-2	534	O-1	656
E-3	548	O-2	677
E-4	583	O-3	725
E-5	598	O-4	766
E-6	611	O-5	844
E-7	641	O-6	951
E-8	677	O-7	1,029
E-9	[1] 707	O-8	1,127
W-1	656	O-9	1,210
W-2	682	O-10	[2] 1,326
W-3	702		

"[1] If the veteran served as sergeant major of the Army, senior enlisted advisor of the Navy, chief master sergeant of the Air Force, sergeant major of the Marine Corps, or master chief petty officer of the Coast Guard, at the applicable time designated by section 402 of this title, the surviving spouse's rate shall be $763.

"[2] If the veteran served as Chairman of the Joint Chiefs of Staff, Chief of Staff of the Army, Chief of Naval Operations, Chief of Staff of the Air Force, Commandant of the Marine Corps, or Commandant of the Coast Guard, at the applicable time designated by section 402 of this title, the surviving spouse's rate shall be $1,421.";

(2) by striking out "$58" in subsection (b) and inserting in lieu thereof "$60";

(3) by striking out "$149" in subsection (c) and inserting in lieu thereof "$155"; and

(4) by striking out "$73" in subsection (d) and inserting in lieu thereof "$76";

SEC. 6. DEPENDENCY AND INDEMNITY COMPENSATION FOR CHILDREN

Section 413(a) is amended—

(1) by striking out "$251" in clause (1) and inserting in lieu thereof "$261";

(2) by striking out "$361" in clause (2) and inserting in lieu thereof "$376";

(3) by striking out "$467" in clause (3) and inserting in lieu thereof "$486";

(4) by striking out "$467" and "$94" in clause (4) and inserting in lieu thereof "$486" and "$98", respectively.

SEC. 7. SUPPLEMENTAL DEPENDENCY AND INDEMNITY COMPENSATION FOR CHILDREN

Section 414 is amended—

(1) by striking out "$149" in subsection (a) and inserting in lieu thereof "$155";

(2) by striking out "$251" in subsection (b) and inserting in lieu thereof "$261"; and

(3) by striking out "$128" in subsection (c) and inserting in lieu thereof "$133".

SEC. 8. EFFECTIVE DATE

The amendments made by this Act shall take effect on December 1, 1987.

● Mr. MURKOWSKI. Mr. President, I am today, along with the distinguished former chairman of the Committee on Veterans' Affairs, Senator SIMPSON, and committee member Senator STAFFORD, offering an amendment to legislation which I introduced on January 6 to provide a cost-of-living adjustment [COLA] for the disability compensation paid to veterans with disabilities incurred or aggravated while they were on active military duty and the dependency and indemnity compensation [DIC] paid to the survivors of service members who die while on active duty or veterans who die as a result of disabilities which were incurred or aggravated while on active duty. The increase would be effective December 1, 1987. It would also apply to the additional compensation received by certain severely disabled veterans, the clothing allowance paid to veterans who, as a result of a service-connected disability, use prosthetic devices which tend to wear out clothing, and to the additional compensation or DIC which is paid when a veteran has dependents.

Mr. President, the original bill, S. 240, which I introduced on January 6 of this year, would have provided a 3.9-percent COLA for these benefits. On the same day that S. 240 was introduced, the Congressional Budget Office sent a letter to the Budget Committee which included revised economic assumptions including an increase, from 3.9 to 4.1 percent, in the projected increase in the cost of living for fiscal year 1987. The amendment we are introducing today reflects these revised economic assumptions and would provide a 4.1-percent COLA for these veterans' disability and survivors' benefits.

The recipients of the benefits which this legislation would protect from projected inflation include former service members who were injured in the performance of duty and the survivors of service members injured or killed in the performance of duty. This amendment would assure these deserving Americans that the benefits upon which they depend will be increased with a COLA large enough to provide complete protection from inflation. The changes in economic assumptions which require a revised bill illustrate how difficult it is to ensure this important task is accomplished. This legislation would fulfill the duty of the Nation and the Congress to protect the income of these veterans and their survivors. I urge my colleagues to join me in support of this legislation.●

SENATE CONCURRENT RESOLUTION 7—OPPOSING REDUCTIONS IN CERTAIN VETERANS' ADMINISTRATION FUNDING LEVELS

Mr. MURKOWSKI (for himself, Mr. CRANSTON, Mr. SIMPSON, Mr. THURMOND, Mr. STAFFORD, Mr. SPECTER, Mr. MATSUNAGA, Mr. DECONCINI, Mr. MITCHELL, Mr. ROCKEFELLER, and Mr. GRAHAM) submitted the following concurrent resolution; which was referred to the Committee on Veterans' Affairs:

S. CON. RES. 7

Whereas the title XIX of Public Law 99-272, the Consolidated Omnibus Budget Reconciliation Act of 1985, the Congress established three categories of veterans' hospital-care and nursing-home-care eligibility;

Whereas under the above law, the Veterans' Administration is required to furnish needed hospital care and may furnish needed nursing home care to veterans in category A for service-connected disabilities, for certain special categories of veterans, and for non-service-connected veterans who have incomes not greater than $15,195 (as adjusted on January 1 of each year) for veterans with no dependents;

Whereas the Veterans' Administration may furnish needed hospital and nursing home care to veterans in category B, who are veterans with non-service-connected disabilities who have incomes not greater than $20,260 (as adjusted on January 1 of each year) for veterans with no dependents, to the extent that resources and facilities are available;

Whereas the Veterans' Administration may furnish needed hospital and nursing home care to veterans in category C, who are veterans with non-service-connected disabilities who have incomes above $20,260 (as adjusted on January 1 of each year) for veterans with no dependents, and who agree to pay a modest copayment, to the extent that resources and facilities are otherwise available;

Whereas the Veterans' Administration budget request for fiscal year 1988 proposes that funding be eliminated for the care of those veterans in category C for the last five months of fiscal year 1987 and for the entire fiscal year 1988;

Whereas the Congress, in enacting Public Law 99-272, did not intend to eliminate care to category C eligible veterans; and

Whereas even if a policy were adopted to eliminate care for category C veterans, its implementation would be extremely difficult and would result in a general reduction of hospital and nursing home care for veter-

ans in all three eligibility categories: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That the Congress rejects the proposal that funding be eliminated for the care of veterans in category C and strongly opposes any policy of excluding any category of eligible veterans from receiving Veterans' Administration hospital and nursing home care through a reduction in current funding levels.

● Mr. MURKOWSKI. Mr. President, I rise today, as ranking minority member of the Committee on Veterans' Affairs, to introduce, along with the distinguished chairman of the Senate Veterans' Affairs Committee, Senator ALAN CRANSTON, and all other members of the Veterans' Affairs Committee, a concurrent resolution rejecting the administration's proposal that funding be eliminated for certain veterans in need of hospital and nursing home care and expressing strong congressional opposition to a proposal to exclude any category of eligible veterans from receiving Va hospital and nursing home care through a reduction in current funding levels.

I fully recognize the need to bring spending and revenues into line if we hope to control burgeoning deficits year after year and to begin the process of reducing an incomprehensible national debt. All Americans—veterans and nonveterans alike, as well as future generations of Americans—will suffer if we do not succeed. Toward this worthy and essential administration goal, I am fully in agreement. How we accomplish this goal is another question. After reviewing the VA budget proposal for fiscal year 1988 as it relates to medical care, I find that I cannot support and will not support this proposal designed to reduce the size of the VA's medical-care system through the elimination of funding for the category of non-service-connected veterans with incomes over $20,260. This proposal is simply not fair and it is inconsistent with the landmark legislation the Congress passed last year.

In title XIX of Public Law 99-272, the Consolidated Omnibus Budget Reconciliation Act of 1985, the Congress established three categories of veterans' health-care eligibility. The law provides that the Veterans' Administration [VA] shall furnish needed hospital care and may furnish needed nursing home care to eligible veterans in category A. Veterans in category A include veterans who have service-connected disabilities, certain special categories of veterans, and veterans who have non-service-connected disabilities and who have annual incomes not greater than $15,195 for veterans with no dependents. The VA may furnish needed hospital and nursing home care to veterans in category B, to the extent that resources and facilities are available. Veterans in category B include veterans who have non-service-connected disabilities and who have annual incomes not greater than $20,260 for veterans with no dependents. The VA may also furnish needed hospital and nursing home care to veterans in category C, to the extent that resources and facilities are otherwise available, if the veteran agrees to pay a modest copayment. Veterans in category C include veterans who have non-service-connected disabilities and who have annual incomes above $20,260 for vetearns with no depedents.

During the development of the legislation that culminated in Public Law 99-272, the administration originally proposed a VA health-care means-test which would require a spend-down provision, similar to Medicaid, for non-service-connected veterans who have annual incomes above a certain threshold. The Congress categorically rejected that approach and instead adopted an approach which is more equitable to veterans. Public Law 99-272 specifically provides that veterans who have non-service-connected disabilities and whose incomes exceed certain specified amounts, annually adjusted for inflation, may receive hosptial or nursing home care for those disabilities on a space-available basis, if they agree to make a modest copayment. This legislation was intended to provide that all categories of eligible veterans could continue to receive VA hospital and nursing home care if existing resources and space are available. By taking this approach, the Congress intended to provide hospital and nursing home care, to the extent possible without expanding the current size of the VA medical care system, for veterans in category C.

In light of the intent of Congress regarding categories A, B, and C, the administration's proposal contained in the VA's fiscal year 1988 budget request, as well as the administration's proposed recission for fiscal year 1987, which would eliminate funding for health care to category C veterans, is totally unacceptable.

The administration's proposal states that, although funding would not be provided for category C veterans, the implementation of this proposal would not change the eligibility nor the possibility of a non-service-connected disabled veteran earning more than $20,260, from receiving VA hospital or nursing home care in locations where resources remain available. This is not a reasonable or realistic position. If the administration's proposed funding reductions are enacted, the VA's medical-care budget would be reduced by 3 percent, the approximate percentage of category C veterans that were furnished VA health care since July 1986. I do not believe it is reasonable to expect that only category C veterans would be affected by implementing such a funding reduction. For all practical purposes, reductions would have to be made in a manner which would affect all eligible veterans seeking VA health care. So, not only would the availability of VA health care be essentially eliminated for category C veterans, but category A and B veterans would certainly find a reduction in their access to health care as well.

The Congress did not intend that the VA health care system would be expanded to ensure treatment for category C veterans. Category C veterans are not entitled to VA hospital nor nursing home care under the law. However, the Congress expects that, as in the past, veterans in all three eligibility categories will continue to seek VA medical care. It is conceivable that some VA hospitals might only have room to treat category A and B veterans, even though it is my understanding that there are VA hospitals throughout the country which have excess bed capacity. Under the administration's proposal to cut back VA medical care funding, hospitals treating only, or mostly, category A and B veterans would most likely be forced to reduce services and treatment to these high priority categories of veterans.

Mr. President, because of my strong opposition to the administration's proposed elimination of funding for the care of category C veterans, I have introduced this concurrent resolution to express congressional opposition to any such policy. I have communicated with my good friend and colleague, G.V. (SONNY) MONTGOMERY, chairman of the House Veterans' Affairs Committee, who shares my strong feelings on this issue and who is planning to introduce a similar resolution on this matter in the House. I am pleased that all my colleagues on the committee are joining myself and Senator CRANSTON as original cosponsors of this important resolution.

Mr. President, I urge my colleagues to consider carefully the impact of a 3-percent reduction in funding for VA medical care for our Nation's veterans, and to join with me in supporting this concurrent resolution which will send a message of strong congressional opposition to such a proposal.●

Mr. CRANSTON. Mr. President, as the chairman of the Committee on Veterans' Affairs, I am delighed to join with my friend from Alaska [Mr. MURKOWSKI], the committee's ranking minority member, and our other colleagues on the committee, Senators MATSUNAGA, DECONCINI, MITCHELL, ROCKEFELLER, GRAHAM, SIMPSON, THURMOND, STAFFORD, and SPECTER, in introducing Senate Concurrent Resolution 7, a resolution expressing the opposition of the Congress to certain reductions proposed by the administration in its fiscal year 1988 budget in appropriations for the Veterans' Administration's medical care account for

both fiscal year 1987 and fiscal year 1988.

Mr. President, the administration's budget proposes reductions of approximately 4,000 FTEE's and approximately $220 million in associated funding for fiscal year 1988. These reductions are described in the budget as being based on the elimination of funding for care for a certain category of veterans—so-called category C veterans—who are veterans who have no service-connected disabilities and who have annual incomes above $20,260 in the case of those with no dependents. For fiscal year 1987, the administration has proposed a rescission of $75 million in the VA's medical care account in order to achieve a proportionate decrease in staffing—1,400 FTEE—and services in the last 5 months of this fiscal year.

In the Consolidated Omnibus Budget Reconciliation Act of 1985—Public Law 99-272—the Congress established three categories of veterans for the purpose of determining eligibility for VA hospital care. Category A veterans—principally those with service-connected conditions, those in certain special categories, and those with no service-connected conditions with limited incomes, below $15,195 for veterans with no dependents—are entitled to receive VA hospital care. Category B veterans—those with no service-connected conditions and with incomes below $20,260—are eligible, but not entitled, to receive such care to the extent that resources are available. Category C veterans—whom I earlier described—are also eligible to receive such care if VA resources are otherwise available and if they agree to make a modest copayment to the VA in connection with their care.

Mr. President, the proposal in the budget on which the cutbacks are premised, that is, the reduction of staff in connection with the treatment of one category of veteran-patients, is unrealistic. Any reductions in staff and funding for the VA health care system will affect all veterans seeking VA care, including those with service-connected disabilities as well as those who are eligible for such care on the basis of their incomes. The proposed cuts are simply that—cutbacks in the available resources to treat veteran patients in the guise of a targeting that is not possible. As is set forth explicitly in the resolution we are introducing today, the Congress, in enacting Public Law 99-272, did not intend to eliminate care to category C veterans.

Mr. President, as the chairman of the Veterans' Affairs Committee, I intend to work very actively, in conjunction with our ranking minority member, Senator MURKOWSKI, and other members of our committee, in having the proposed cutbacks, including both the fiscal year 1987 proposed rescission and the fiscal year 1988 cutbacks, rejected and the current staffing level—194,140 FTEE—for the VA health care system maintained. Maintaining reliable, consistent support for the VA medical program is essential if the agency is to continue to fulfill its mission or providing quality care to our Nation's veterans.

Mr. President, the demand for VA health care services continues to rise as large numbers of World War II veterans encounter ever greater health care needs associated with their advancing years and turn to the VA for care. Although it is true that productivity gains in recent years have enabled the VA to provide health care for increasing numbers of veterans within its limited resources, the already-increasing demand for services by the aging veteran population coupled with decreased staffing resources could cause undue hardship for many eligible veterans. Even at the approximately 194,000 FTEE level in fiscal year 1985, a VA Department of Medicine and Surgery survey reported that approximately 9,000 veterans in need of care were turned away by the VA during the survey week in April 1985. That factors out to more than 36,000 per month.

Our committee has worked very closely with the Appropriations Committee over the years in an effort to achieve and maintain a stable staffing level within the VA's Department of Medicine and Surgery. In the current fiscal year, as in each of the prior 2 years, we have been successful in that effort, maintaining health care staffing across the VA system at the level of approximately 194,000 FTEE. I am confident that the Congress will continue to provide such support.

Mr. President, our committee will hold a hearing on the administration's budget on Wednesday, February 18, beginning at 9:30 a.m. in SR-418. At that time, we will continue to pursue this issue, and I am confident that the members of our committee, all of whom have cosponsored this resolution, will reject the cutbacks proposed by the administration for fiscal year 1988. I also intend to work closely with the Appropriations Committee to achieve a rejection of the rescission for fiscal year 1987. Indeed, I will shortly be sending a letter, with Senator MURKOWSKI, to the Appropriations Committee and its Subcommittee on HUD-Independent Agencies Appropriations, urging that the proposed rescission be soundly rejected, as it should be.

SENATE RESOLUTION 55—ORIGINAL RESOLUTION REPORTED AUTHORIZING EXPENDITURES BY THE COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. PROXMIRE, from the Committee on Banking, Housing, and Urban Affairs, reported the following resolution; which was referred to the Committee on Rules and Administration:

S. RES. 55

Resolved, That in carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under Rule XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of Rule XXVI of the Standing Rules of the Senate, the Committee on Banking, Housing, and Urban Affairs is authorized from March 1, 1987 through February 28, 1988, 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 basis the services of personnel of any such department or agency.

SEC. 2. The expenses of the Committee under this resolution shall not exceed $1,760,512 of which amount (1) not to exceed $1,000 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 $1,000 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of such act.)

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, 1987.

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 for the disbursement of salaries of employees paid at an annual rate.

SEC. 5. There are authorized such sums as may be necessary for agency contributions related to the compensation of employees of the Committee from March 1, 1987, through February 28, 1988, to be paid from the Appropriations account for "Expenses of Inquiries and Investigations".

SENATE RESOLUTION 56—ORIGINAL RESOLUTION REPORTED AUTHORIZING EXPENDITURES BY THE COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. JOHNSTON, from the Committee on Energy and Natural Resources, reported the following original resolution; which was referred to the Committee on Rules and Administration:

S. RES. 56

Resolved, That, in carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its

jurisdiction under rules XXV of such rules, including holding hearings, reporting such hearings and making investigations as authorized by paragraphs 1 and 8 rule XXVI of the Standing Rules of the Senate, the Committee on Energy and Natural Resources is authorized from March 1, 1987, through February 29, 1988, in its descretion (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 the reimbursable basis the services of personnel of any such department or agency.

SEC. 2. The expenses of the committee under this resolution shall not exceed $2,405,168, of which amount (1) not to exceed $2,000 may be expended for the training of professional staff of such committee (under procedures specified by section 202(j) of such act).

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 29, 1988.

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 for the disbursement of salaries of employees paid at an annual rate.

SEC. 5. There are authorized such sums as may be necessary for agency contributions related to the compensation of employees of the committee from March 1, 1987, through February 29, 1988, to be paid from the Appropriations account for "Expenses of Inquiries and Investigations."

SENATE RESOLUTION 57—ORIGINAL RESOLUTION REPORTED AUTHORIZING EXPENDITURES BY THE COMMITTEE ON ARMED SERVICES

Mr. NUNN, from the Committee on Armed Services, reported the following original resolution; which was referred to the Committee on Rules and Administration:

S. RES. 57

Resolved, That, in carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rules XXV of such rules, including holding hearings, reporting such hearings and making investigations as authorized by paragraphs 1 and 8 rule XXVI of thie Standing Rules of the Senate, the Committee on Energy and Natural Resources is authorized from March 1, 1987, through February 29, 1988, in its descretion (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 the reimbursable basis the services of personnel of any such department or agency.

SEC. 2. The expenses of the committee under this resolution shall not exceed $2,271,039, of which amount (1) not to exceed $25,000 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 $4,000 may be expended for the training of professional staff of such committee (under procedures specified by section 202(j) of such act).

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 29, 1988.

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 for the disbursement of salaries of employees paid at an annual rate.

SEC. 5. There are authorized such sums as may be necessary for agency contributions related to the compensation of employees of the committee from March 1, 1987, through February 29, 1988, to be paid from the Appropriations account for "Expenses of Inquiries and Investigations."

SENATE RESOLUTION 58—ORIGINAL RESOLUTION REPORTED AUTHORIZING EXPENDITURES BY THE COMMITTEE ON APPROPRIATIONS

Mr. STENNIS, from the Committee on Appropriations, reported the following original resolution; which was referred to the Committee on Rules and Administration:

S. RES. 58

Resolved, that, in carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, reporting such hearings and making investigations as authorized by paragraph 1 of rule XXVI of the Standing Rules of the Senate, the Committee on Appropriations is authorized from March 1, 1987 through February 28, 1988, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the proper consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable basis the services of personnel of any such department or agency.

SEC. 2. The expenses of the Committee under this resolution shall not exceed $4,119,856, of which (1) not to exceed $135,000 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 $8,000 may be expended for the training of the professional staff of such Committee (under procedures specified by section 202 (j) of such Act).

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 no later than February 28, 1988.

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 for the disbursement of salaries of employees paid at an annual rate.

Mr. STENNIS. Mr. President, I send to the desk a resolution authorizing expenditures by the Committee on Appropriations. This resolution was approved by the committee at its organizational meeting, today, January 14, and is reported by me after committee approved and with the concurrence of the Senator from Oregon [Mr. HATFIELD], the ranking member of the committee.

SENATE RESOLUTION 59—CONGRATULATING THE DENVER BRONCOS

Mr. ARMSTRONG (for himself and Mr. WIRTH) submitted the following resolution; which was ordered to be held at the desk by unanimous consent:

S. RES. 59

Whereas on January 25, 1987, the Denver Broncos, the American Football Conference Champions, will play the New York Giants, the National Football Conference Champions in the twenty first Super Bowl in Pasadena, California; and

Whereas the Denver Broncos' fans deserve their reputation as the most enthusiastic in professional sports; and

Whereas the Denver Broncos have 132 consecutive ticket sellouts for home games; and

Whereas the Denver Broncos have five players elected to play in the 1987 Pro Bowl; and

Whereas the Denver Broncos won the Western Division Title of the American Football Conference with 11 wins and 5 losses and defeated the New England Patriots and the Cleveland Browns in AFC playoff games to become AFC Champions and Super Bowl contender; and

Whereas the Denver Broncos actively participate in community service programs, such as youth counseling and anti-drug programs: Now, therefore, be it

Resolved, That it is the sense of the Senate that the Congress commends the superior achievements of the Denver Broncos organization.

NOTICES OF HEARINGS

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. LEAHY. Mr. President, I wish to announce that the Committee on Agriculture, Nutrition, and Forestry will hold an organizational meeting on Wednesday, January 21, 1987, at 9:30 a.m. in SR-332 to complete action on subcommittee assignments, adopt the committee rules and the committee budget for this year.

The committee will also hold a budget oversight hearing on Wednesday, February 4, 1987, at 10 a.m. in SR-385. Secretary Lyng is scheduled to testify.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON FOREIGN RELATIONS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, January 14,

1987, at 10 a.m. to hold hearings, on United States policy toward Iran.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ARMED SERVICES

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on Wednesday, January 14, 1987, at 2 p.m. to hold open and closed hearings on the use of operational gaming and simulation to assist strategy making.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on Wednesday, January 14, 1987, at 9:30 a.m. to continue hearings on the national security strategy of the United States.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be authorized to meet during the session of the Senate on Wednesday, January 14, 1987, at 9:30 a.m. to hold hearings to review national education policy.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Intelligence be authorized to meet during the session of the Senate on Wednesday, January 14, 1987, at 9:30 a.m. to hold closed hearings on intelligence matters.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

REPEAL OF THE FUEL USE ACT AND INCREMENTAL PRICING

● Mr. BINGAMAN. Mr. President, I am pleased to join my distinguished colleague, Senator JOHNSTON, in introducing legislation to repeal the Power Plant and Industrial Fuel Use Act of 1978, and the incremental pricing system. The repeal of the Fuel Use Act is long overdue. The act currently prohibits the burning of oil and gas in new powerplants and bars the building of plants without alternate fuel capacity. These restrictions make little sense in light of today's gas surplus and low oil prices. The incremental pricing system also needs to be replaced. Under incremental pricing, "low priority users," such as fuel switchable industries, must pay the highest share of a pipeline's gas purchase costs. This system is no longer necessary.

The Fuel Use Act of 1978, by imposing restrictions on the use of oil and natural gas to fuel industrial or utility boilers, reduced the demand for natural gas, which was then a vastly underpriced commodity. Years of regulation had kept the price of natural gas low in relation to other fuels, which artificially stimulated the demand for natural gas, especially among residential users. This situation did nothing, however, to encourage exploration, drilling, and production of natural gas.

As a result of the passage of the Fuel Use Act, large volume consumers of natural gas shifted to alternative energy sources such as coal. This action improved supplies of natural gas so much that in 1981 the provisions in the act prohibiting the use of natural gas in existing powerplants and utilities was repealed. New plants, however, are still prevented from using oil or natural gas. Now, at a time of soaring surpluses of oil and gas—which historically, because of its competitive market price, has been the target of the Fuel Use Act—is the time to repeal the prohibitions on the use of both natural gas and oil. This restriction has inhibited market forces by dictating fuel choices for utilities and industrial users. We should now return the choice to marketplace forces.

This is part of a long-term effort that will help relieve the strain imposed on the energy-producing States by the current oil price decline and the resultant oversupply. There will be other legislation to provide more direct and immediate relief to the energy industry and protection for our national security interests, but this is an important first step to ensure that our domestic producers stay in the business of finding and producing oil and natural gas.

I encourage my colleagues to review this measure carefully, giving all consideration to the need to maintain our domestic production capability for reasons of both national and economic security.●

CATASTROPHIC HEALTH INSURANCE

● Mr. DURENBERGER. Mr. President, one of the most pressing issues of the 100th Congress will be catastrophic health insurance. I believe the proposal submitted by Secretary Bowen to the President is an important beginning, and there is substantial bipartisan interest in addressing this important national policy issue. As well there should be—we all have seen or know of American families who are financially and emotionally devastated by a catastrophic illness, and that's wrong. I look forward to working with my colleagues in Congress and with the administration in crafting a workable program that can pass this Congress.

The proposals considered in Congress will focus mainly on catastrophic coverage for acute care expenses, but of course the health care needs of an aging American extend beyond hospital walls and into nursing home and home-care needs. I believe there is wide agreement both inside and outside Government that the private sector must play a significant role in addressing and solving the problems of the huge costs of long-term care. With an estimated 50 million Americans needing nursing home care within 25 years—5 times the number today—and the cost of nursing home care averaging $20,000 per year, we all have our work cut out for us.

Northwestern National Life Insurance Co., headquartered in Minneapolis, has started to address the issue of managing long-term care costs. Its unique Life Scope plan is developing an interrelated program of benefits to meet the insurance and financial planning needs of people during both their working and retirement years.

Recently the Minneapolis Star and Tribune reported on LifeScope. I encourage my colleagues to read about this important initiative. It serves as an important example of the commitment and interest that exists in the private sector to get on top of this growing societal issue and actively participate in finding solutions. I ask that the article on LifeScope be printed in the RECORD.

The article follows:

[From the Minneapolis Star and Tribune, Oct. 20, 1986]

INSURANCE PLAN WOULD ASSURE HEALTH CARE FOR LIFE

LIFESCOPE CONCEPT INVOLVES SAVING NOW FOR LATER NEEDS

(By Joe Blade)

One of the great unpleasant surprises of later life can be finding out what Medicare doesn't cover. That discovery can destroy the savings of a lifetime in a few months.

Many people are unaware that Medicare doesn't pay for long-term nursing home care. It covers only 100 days in a nursing home after a person is hospitalized. Basically that is nursing-home care that follows short-term, acute illnesses.

Patients so feeble or ailing that they need to spend the rest of their lives in a nursing home must pay the bill themselves or have it paid by Medicaid.

But Medicaid finances health care only for the poor. That means nursing-home patients who aren't poor must "spend down" their assets until they become poor. Then Medicaid begins picking up the tab.

(Minnesota has recently modified its spend-down rules for Medicaid recipients so a spouse of a nursing-home patient is able to retain most of his or her assets.)

The growing number of elderly Americans is straining the resources available to pay those costs, for both private citizens and the government. For example, total expenditures on nursing homes are doubling every five years, even when adjusted for inflation.

In a 1984 study, the Health Insurance Association of America concluded that government probably could not meet the future health-care needs of the elderly. The organization asked businesses to seek solutions.

Northwestern National Life Insurance Co. has responded. The company is working on an innovative concept called LifeScope. Not yet a policy or even a detailed plan, it would be sold to companies as a fringe benefit for their employees to provide health care throughout the employees' life, both before and after retirement.

The LifeScope concept is built around this idea;

Workers, and possibly their employers, would deposit money in a special account during their working years. When they retire, the accumulated funds plus interest would be available to finance health care for the rest of their lives.

It isn't certain just how that money would be used. Perhaps the total amount would be turned over to the insurance company, and LifeScope would assume responsibility for every aspect of the participants' health care. Perhaps different levels of care would be available with differing premiums that buyers could pay out of the accumulated funds.

As now conceived, LifeScope also would provide:

Health insurance during the employees' working years. The health care would include wellness programs, which advise people how to stay healthy.

Financial planning to help employees save money for their later years.

Retirement planning. Pensions and retirement income might be tied in.

Research to develop "life style profiles" that would reveal how different living patterns affect health and longevity.

All aspects of health care during retirement. For example, some elderly people enter nursing homes because they no longer are strong enough to cook and do chores around their homes. Perhaps they need a daily medical check on their condition.

LifeScope's coverage would include home health care, such as visiting nurses and chore services, to keep people in their homes. That almost always costs less than nursing homes charge.

Coverage would be integrated with Medicare, health maintenance organizations and other private insurance.

"It's a fascinating concept to me," said Daniel Detzner, coordinator of aging studies at the University of Minnesota. As the population ages, he said, "the costs on a national basis have become even more prohibitive." The national government can't continue to be the provider of last resort, Detzner said.

He sees the alternatives to a nursing-home stay as one of LifeScope's most desirable benefits.

"Everyone wants independent living," he said. "That is the protection that will be most attractive to older people." It also will help families do what they want to do, which he said is to help older parents to continue to live independently.

"LifeScope is the ultimate choice in employee benefit plans," said Don Henyan, who is leading the effort as executive vice president of Northwestern Life's group insurance division. "We're really talking about total managed care."

The company is no stranger to employee benefits. It started in the business in 1917 and today is probably among the country's 10 largest providers of employee benefit plans, according to Virginia Patrick, director of group division communications.

There are many gaps in today's health coverage for the elderly, Patrick said. Medicare focuses on acute ailments. Medicaid is for the poor. Employer-provided health insurance for retirees is being threatened by soaring costs. Nursing-home insurance is in its infancy and has an uncertain future.

Instead of concentrating on specific services, such as hospitalization, Northwestern Life decided to try to cover lifetime health needs.

The most serious barrier facing the plan may be Americans' disinclination to save. Congress has just cut the tax benefits of Individual Retirement Accounts (IRAs) because few low-income wage earners were saving through them.

Business Insurance magazine queried several employee-benefit experts about LifeScope. They were enthusiastic about the concept but skeptical that the savings aspect could be carried out unless it were shielded from taxes. For LifeScope to work, Congress may have to reverse course and give the savings plan an IRA-like tax break.

Will Americans be willing to set money aside in their 20s, 30s and 40s to pay for health care in their 70s and 80s? At the moment, that seems unlikely. A recent survey of professionals between the ages of 25 and 39 found that they have no faith that Social Security and Medicare will exist when they retire. Nor will they save for their retirement. They expect the worst, but do nothing about it.

Henyan has no illusions about the difficulty of reversing those attitudes. The current trends are all in the wrong direction, he concedes. His hope is that people will change their minds when they realize the consequencies of inaction.

Most people don't want to become paupers to get their nursing-home bills paid, he said.

"There's going to come a time," he added, "when people realize, 'I've got to save because if I don't, no one's going to take care of me.' "

LifeScope is in the first year of a three-year planning process. The company hopes to complete a business plan by year's end that will finalize some details.

Next year Northwestern Life will try a model of the plan with about 5,000 employees at two or three Minnesota companies. Minnesota's wide variety of health-care facilities and its openness to new ideas make the state a natural for such an experiment, Henyan said.

"There are an awful lot of questions for which we need answers to do this effectively," he said. He estimated that it might take two years to fine-tune the program and eliminate the bugs.

In an effort to pinpoint some of the problems, Northwestern Life sponsored a seminar last January that probed the ideas of seven specialists on the aged. The participants agreed on the growing difficulty of financing health care but felt that solutions are possible. Best of all, said Henyan, they also agreed that private insurers could play a role.

"It gave us the courage to continue and the belief we're headed in the right direction," he said

Northwesten Life made two videotapes of the seminar and is distributing them to interested groups. It also has begun an advertising campaign to introduce LifeScope in very general terms.

The company also is mounting a joint venture with two other insurance companies to work on developing various alternative health-care systems. Nearly $100 million is to be invested by Northwestern Life, John Hancock Mutual Life Insurance Co. and Hartford Insurance Group. The venture is not directly related to LifeScope, said Henyan, but its findings may be useful to LifeScope.●

THE GIANTS' VICTORY IN THE NFC CHAMPIONSHIP GAME

● Mr. MOYNIHAN. Mr. President, this past Sunday, the New York Giants dominated the Washington Redskins by a score of 17 to 0, and in turn won their first title since 1956. This victory lifted the NFC champions' record to 16–2 and qualified them for their first trip to the Super Bowl. They will face the AFC champion Denver Broncos at the Super Bowl in Pasadena, CA on January 25 in what promises to be an extraordinary athletic event.

Where would a professional sports team be in the 1980's without its share of nicknames and superstars, Mr. President? The Giants are no exception. The defensive unit has been renamed the Big Blue Wrecking Crew, the offensive line the Suburbanites. There is Joe Morris and Phil Simms from the offense, Harry Carson and Jim Burt from the defense. And one cannot overlook LT, Lawrence Taylor, the Associated Press Most Valuable Player this season, or Head Coach Bill Parcells, named the National Football League's Coach of the Year. Quite an honor for both these men.

This tribute, Mr. President, is not just for the team—even though they deserve all the accolades bestowed upon them—but it is especially for the devoted and longstanding Giants fans. One only had to glance at film clips from the game, to notice the blizzard of shredded programs whipping through Giants Stadium, not caused by the weather, but by over 76,000 joyous fans. Some of those fans on hand for Sunday's game remember the 1956 season, when the Giants last won a championship. Since then they have suffered through several years of "rebuilding," but the fans have remained dedicated. From 1958 in Yankee Stadium to the present time in Giants Stadium, there has not been an unsold seat. A fine example of the loyalty of these fans. Now as a reward to this loyalty, the team is going to the Super Bowl.

Mr. President, as we await the outcome of the Super Bowl, I take this opportunity to thank and congratulate the New York Giants, and their fans, for giving us a thrilling season. We look forward to an equally exciting Super Bowl. Good luck to all you Giants fans.●

ISRAEL AND AMERICA

● Mr. LUGAR. Mr. President, our colleague, Senator PRESSLER, spoke to the Zionist Organization of America on December 7, 1986, on the occasion of that organization's presentation of the prestigious Justice Louis D. Brandeis Award to John Loeb, Jr. Mr. Loeb is the former American Ambassador to Denmark. In addition to several hundred other guests, the event was attended by Denmark's Ambassador to the United States, Eigel Jorgensen, and the Danish Consul General in New York, Willads Willadsen.

Other Members of the Senate may wish to read Senator PRESSLER's thoughtful remarks, and I ask that Ambassador Loeb's remarks be printed in the RECORD following those of Senator PRESSLER.

The material follows:

ISRAEL AND AMERICA: PARTNERS FOR DEFENSE OF DEMOCRACY

Thank you for inviting me to speak here tonight. It is, indeed, an honor to be a small part of this program honoring Ambassador John Loeb. He served America well as our Ambassador to Denmark. In every way, his service to our nation exemplifies the high standard of justice and the ideals we associated with Justice Brandeis. He is an outstanding citizen who is deeply attached to Israel, and he has served the United States well. While attending Harvard Law School, John, I became a great admirer or Justice Brandeis. This can be one of the great awards of your life. It makes me very proud to be just a small part of it.

It has been my privilege to serve as Chairman of the European Affairs Subcommittee of the Foreign Relations Committee for the past two years. As a second term member of the United States Senate, I've had a chance to observe firsthand the performance of many of our ambassadors. In fact, I have chaired over 40 hearings of new ambassadors who come before the Senate for approval. Having observed these ambassadors over the years, it is clear to me that our honoree this evening has truly been one of the most outstanding.

As a member of the Senate Foreign Relations Committee, I have followed his career closely from the day I presided over his confirmation hearings His confirmation was unanimously approved. We appreciate how effectively he served during his tenure as our Ambassador to Denmark. Although we have close ties with Denmark, there are also many problems in the relations between our two countries. John's assignment coincided with a period of unprecedented domestic debate in Denmark over policies for the defense of Western Europe and the role of American bases in Greenland. He demonstrated great skill in communicating American policy on these issues to Danish authorities, and conducted a vigorous personally directed program of outreach to the Danish people to improve their understanding of the Soviet threat, disarmament negotiations, and the undiminished need for strong Western defenses.

Upon Ambassador Loeb's departure from Denmark, the Queen presented him with one of Denmark's most prestigious awards, the Grand Cross of the Order of Danneborg. Under our law, an American diplomat may accept a foreign decoration only if the State Department rules that his service has been unusually meritorious, which was certainly true in John's case.

There are two other reasons I am pleased to be here tonight:

(1) The Zionist Organization of America is a leader in the effort to maintain strong American ties to Israel. As a friend of Israel, I know how essential it is to have the kind of effective, unified effort your organization makes on behalf of this important American-Israeli relationship. I congratulate you for your successful work in this area.

(2) In addition to honoring my good friend, John Loeb, this occasion gives me the opportunity to offer some brief comments on some of the important issues affecting U.S. and Israeli interests in the Middle East.

There is good reason to be concerned about the long-term security and economic interests of the U.S. and Israel. The scourge of terrorism continues, and the U.S. and Israel have been the principal actors in the effort to come to grips with this problem. In recent weeks, we have been reminded again of the seriousness of this danger. The failure of some of our European allies to cooperate in important anti-terrorist actions suggests that terrorism could expand in the years ahead. A strong U.S.-Israeli anti-terrorism program needs the support of other key nations of the world. As a U.S. representative to the United Nations General Assembly session this fall, I was especially disappointed to see the General Assembly adopt a Libyan resolution condemning the U.S. retaliation against Libyan terrorist installations. We can count on Israel to help us out, but that isn't true with other countries in some parts of the world. We must redouble our efforts to secure the support of all civilized nations for an end to this era of bomb-throwing by terrorists masquerading as diplomats and peacemakers.

One astounding and little appreciated fact is the tremendous return the U.S. obtains from its small economic and security assistance contribution to Israel. The $3 billion in U.S. aid to Israel pales in comparison with the $130 billion we spend in defense of NATO countries. At a time when the U.S. spends more in defense of Japan than the Japanese themselves spend on their defense, more Americans need to be told about the returns we obtain from our modest investment in Israel.

The U.S. Defense Department has calculated that the return on our defense research and development (R&D) investment in Israel is between two and three times the cost. For example, it was the Israelis who developed the fuel tank system which extended the range of our fighter aircraft by 500 miles. And they proved that it would work under actual combat conditions. They have done the same in other areas of defense technology and weapons development. We station no troops in Israel. The over 300,000 American troops stationed in Europe create thousands of jobs for Europeans, produce tax revenue for Europe, and add substantially to our trade deficit. Our partnership with Israel produces no comparable burden. And Israel supports the United States in the United Nations more than our allies in Europe and Japan. The point I am making is that, in terms of contributing to improvements in our own defense, our assistance to Israel is a highly productive bargain.

The defense of Israel, perhaps America's most important defense ally anywhere in the world, remains in question. Already heavily outnumbered by its adversaries in terms of manpower, Israel must contend with Soviet and other suppliers' continued expansion of the hostile Syrian and PLO arsenals. From my perspective as a member of the Senate Foreign Relations Committee, I am concerned about the great danger of irresponsible military actions by Syria against Israel. With regard to this situation, I would like to briefly discuss an area that will become increasingly important to Israel and the U.S. in the years ahead.

Most people think of the Strategic Defense Initiative only in terms of an exotic and costly complex of space-based or space-directed anti-missile devices designed to ward off a Soviet ICBM attack against the United States. In fact, it is far more than that. It could have critical significance for the defense of Israel and American Middle East interests. Israel is an important participant in research on SDI. In fact, we probably will get more return from our research investment there than from other research. That participation could lead to a stronger Israel. The Middle East military balance would be strengthened in Israel's favor if effective defenses could be erected against Soviet-supplied Syrian missiles which threaten Israeli airfields and other defense installations only miles or minutes away.

SDI research may not lead to an exotic Star Wars scenario. In fact, I am one who doubts very much that it will lead to that. However, there is increasing evidence that it could lead to major technological spinoffs with conventional military and commercial applications. The SDI includes research on technologies that would protect against short-range missiles of the kind Syria possesses in increasing numbers.

SDI means applying computers, optics, electronics and directed energy systems to the task of defense against missiles as well as other offensive weapons. Israel's involvement in SDI research, which was ratified by the U.S.-Israeli agreement of May 1986, means that Israel will be in on the ground floor in the development of defensive systems which could be applied against attack aircraft, tanks, enemy soldiers and other targets. Israel's defense industry, like America's, will develop the technological capacity to combine what is already known about lasers and other beam weapons for defensive purposes. Every aspect of this research should have some valuable spinoffs for conventional defense needs, including the spinoff of improved electronics for command, control and communications functions.

Why is this subject so important? Because it can lead to the enhancement of Israel's ability to deter aggression by Syria or other countries. Because the United States can learn much from Israeli defense science and technology. And because a stronger Israel means more stability in the Middle East and an important addition to the defense of NATO's southern flank. Although it is not a NATO member, in many respects Israel's strength is an attribute that must be counted in the calculation of the West's ability to deter aggression by the Warsaw Pact.

Last, but not least, any strengthening of the defense relationship between Israel and the U.S. is helpful to both nations. The partnership would grow, and with it the commitment to the survival of both in a frequently hostile world. The SDI program will remain controversial for many years to come. What I have tried to suggest here tonight is that it offers the potential to enhance the capacity for national survival. And I am happy to see that the U.S. and Israel are partners in this effort.

Many other problems confront these nations. Economic survival is a prerequisite for effective defense. As a strong supporter of U.S. for Israel, I am glad to note the dramatic improvement in the Israeli economic situation in recent years. The recently elected new Congress should be as supportive as the last regarding this assistance. However, none of us should forget the federal deficit problem. This is the Damocles sword hanging over all federal programs, including foreign aid.

I should also note that negotiations continue on the details of the U.S.-Israeli free trade agreement. Again, both nations will benefit from a partnership in which both are treated equally. Both can grow economically through the fair competition that is the foundation of a free trade relationship. Perhaps the success of a U.S.-Israeli free trade program will demonstrate to other nations—principally Japan and the Common Market countries—that it is possible to move away from the dangerous protectionist course we are now on.

Let me say in conclusion that I am very honored and pleased to be a small part of this evening because what you are doing is very important. It is important for the United States of America. My wife Harriet couldn't be here this evening, but she wanted me to extend her greetings. This is one of the great honors of my life to be a small part of this event because you represent what is best in America.

Thank you very much.

AMBASSADOR JOHN LOEB, JR.'S REMARKS UPON RECEIVING THE LOUIS D. BRANDEIS AWARD FROM THE ZIONIST ORGANIZATION OF AMERICA—DECEMBER 7, 1986

I have listened with much pleasure, and I confess, some embarassment to the kind words that have been spoken about me. Before anyone rises to dispute them, I want to accept this great honor and to say how moved I am to receive this award in the name of one of the greatest men America has ever produced—Supreme Court Justice Louis D. Brandeis.

I am proud of my Jewish heritage and I am proud to be identified as a friend of Israel. Practically all American Jews and a great majority of the American people are today supportive of the State of Israel.

But when I was a young man, this was not so, Zionism was not a popular cause—indeed, anti-Semitism was common in the United States.

But not only anti-Semites attacked the idea of Israel. Justice Brandeis, who for thirty years was the preeminent leader of American Zionism, had many critics—often hostile critics—even in the Jewish community. To these critics, sympathy with Zionism suggested a dilution of one's American allegiance, a hyphenated condition which threatened one's American authenticity.

For me as a son of the American Revolution whose family has served and fought in every American war since then, divided loyalty was never an issue.

As Israel emerged from the ashes of the Holocaust, as it demonstrated its strength of purpose, as it proved to be what Justice Brandeis foresaw it would be—a bastion of democratic ideas and ideals—then almost all American Jews and, indeed almost all Americans came to embrace her.

My own personal experiences with anti-Semitism as a child and my Aunt Dorothy Lehman Bernhard's work in bringing more than 200 distant cousins of ours, to the United States during the 30's, made me deeply interested in what seemed then the impossible dream—the recreation of the ancient State of Israel.

I made my first visit to Israel in 1953. The terrifying pictures of the Holocaust were still vivid memories. I remember my overwhelming emotions when I set foot in Israel, a Jewish state, and saw the land and the people redeemed. It is an experience most of us here have known.

And all of us here have in one way or another given support, moral and material, to Israel. I know we will continue to do so. For it is an obligation of the spirit that we cannot escape. The fact is that as Jews and Americans, we have a stake in Israel's future.

Justice Brandeis and the ZOA—the first organization in America to promote and support the idea of a Jewish state—always understood this.

I want to say to you members and leaders of the Zionist Organization of America—your work and accomplishments are inspiring. I salute you, I thank you.●

JOBS PROGRAM

● Mr. SIMON. Mr. President, the Rock Island Argus is known as a conservative newspaper, but it recently had an editorial calling for action on a jobs program.

That newspaper knows what it is talking about because in the area of Rock Island County, IL, we have a substantial unemployment problem.

It is an area with great potential, and it is suffering not because of a lack of local leadership but because of National Government trade policies and fiscal policies.

The Federal Government simply should not shrug its shoulders and say, "that's tough."

We ought to come up with something constructive, and I am pleased to say this editorial endorses movement on the jobs front along the line I am calling for.

I ask consent to insert this in the RECORD.

The editorial follows:

ON THE JOB

It's a point we have tired to make several times over the last several years. Now that U.S. Sen. Paul Simon, D-Ill., is taking up the refrain, perhaps something will come of the idea.

Simon is proposing an $8 billion national jobs program similar to President Franklin D. Roosevelt's Works Progress Administration (WPA). The WPA put three million Americans to work in the 1930s.

"Since we're not going to let people starve," says Simon, "we face the choice of paying people for doing nothing or paying people for doing something. I think it makes infinitely more sense to pay people for doing something—to let them be productive."

Simon's philosophy seems to echo that of President Reagan, who has championed the concept of "workfare," a system that requires welfare recipients to work in order to remain eligible for benefits.

The work ethic has taken a beating in America in recent years, but most of us still believe that most people want to work, that they want to have a job to do, that they want that feeling of belonging that productivity provides.

Under Simon's proposal, which he plans to introduce in the next session in Congress, people would be guaranteed a 32-hour work week. People could be used for day care, to repair sidewalks, plant trees, install telephones in the homes of the needy and many other jobs.

At a cost of $8 billion a year, the program would constitute less than 1 pecent of the total federal budget.

Simon estimates that this plan would put three million people to work and permit up to two members from the same family to participate. Roosevelt's WPA limited participation to one person per family.

"There are a great many people who now view unemployment as something like the weather," Simon says. "There's nothing you can do about it."

The Illinois Democrat rejects that notion, and so do we.

We hope the Congress and the administration can work together to support Simon's proposal to help put Americans back to work.●

LATIN AMERICA'S DEBT CRISIS

● Mr. SIMON. Mr. President, the Chicago Tribune recently published an article by Sol Linowitz and Galo Plaza on the debt crisis.

We know Sol Linowitz for his leadership on the American business scene and for his leadership in a great many foreign policy thrusts, particularly the Panama Canal Treaty.

Galo Plaza once served as President of Ecuador and was Secretary-General of the Organization of American States.

They have written an article that makes as much sense to me as anything I have seen.

It is a combination of factors we have to consider as we go about solving this problem. And make no mistake about it, we had better move on a solution, or we are inviting the crumbling of some shaky democracies in Latin America.

I ask that the article by Sol Linowitz and Galo Plaza be inserted in the RECORD, and I urge my colleagues to read it.

The article follows:

A DEBT CRISIS THAT GOES ON AND ON

(By Sol M. Linowitz and Galo Plaza)

The debate over what to do about Latin America's debt crisis goes on and on as decisions and actions that could resolve the crisis continue to be put off.

Payments on an accumulated debt of more than $380 billion are crippling Latin America's economic prospects. The region is exporting capital at a rate twice that of Germany's war reparations following World War I. Without the resources to invest in their own economic development or to meet basic human needs, many Latin American nations are plagued by historically high levels of unemployment and inflation, deteriorating housing and public services, food shortages and rising street crime.

In this situation, three things stand out clearly:

Latin America's debt and growth crisis can be ended, but this will require decisive political leadership by the United States on several fronts.

A broad consensus already exists on the basic elements of a solution. U.S. action must draw on these fundamentals.

Key to any solution is sustained economic growth, which is possible only if Latin American countries get greater access to outside capital and continue to reform the management of their economies.

Tragic as the failure to act has been for Latin America, it also has serious political and economic consequences for the United States, with its immense stake in the region. The United States has already lost export markets, worsening our trade deficit and eliminating as many as a million U.S. jobs. We have forfeited investment opportunities. The default of a major Latin debtor would badly damage the U.S. banking system.

Economic paralysis in Latin America, moreover, heightens pressures for migration to the United States and frustrates efforts to control drug trafficking by preventing the development of alternatives to the earnings narcotics provide.

Most important, the progressive weakening of Latin American economies inevitably threatens to reverse the region's democratic gains. If the fragile process of consolidating democracy is undone, the best hope ever of building a community of free nations in this hemisphere will have been lost.

Treasury Secretary James Baker's debt plan of late 1985 reflected the widely agreed view, first, that only through sustained growth can Latin America escape the debt trap and, second, that such growth will only occur if it is nourished by more external financing and nurtured by better economic management.

Latin American countries have undertaken many of the economic reforms called for in the Baker plan. In varying degrees they have expanded the role of the private sector, given greater emphasis to exports, devalued their currencies, cut public spending and lowered inflation. With these changes, the countries are now far better prepared to make effective use of external capital.

But the capital has not been forthcoming. The Baker proposals remain only that—proposals. They need to be implemented. Baker called on the commerical banks to increase their lending to debtor countries by a modest 2½ percent a year, but instead the banks reduced their lending even further in 1986.

The Baker proposals also need to be supplemented. They do not, as formulated, offer enough capital to take Latin America very far toward recovery. The amount of new capital needed—$20 billion per year by informed estimates—must come mainly from commerical banks, without which no debt management program can succeed.

Getting the banks to cooperate is the first task of political leadership. Over four years, the banks have steadily upgraded their financial positions. They are in better shape to provide the new loans that Latin American countries are now better able to use. Making this happen, however, will require that the United States and other industrial countries take a more direct and active role in international debt negotiations.

The U.S. and other governments must not only spur the banks toward additional lending to Latin America. They must also encourage them in other vital directions, such as restructuring existing debt, increasing debt-equity swaps and writing off some loans to countries that cannot cope otherwise.

Governments must revise banking rules that inhibit these initiatives. Banks have to be able to capitalize interest payments without penalty and absorb losses over extended periods on loans they have written down. And the United States and other creditor nations must share some of the final risks if they are to mobilize commerical bank resources. They can do so by offering loan guarantees, cofinancing and similar incentives.

A second objective for leadership involves the international financial institutions—the World Bank, the International Monetary Fund and the Inter-American Development Bank. By raising their commitments to these critically important organizations, the United States, along with Japan and Western Eruope, can reassure the commerical banks that official agencies are sharing the lending burden.

Finally, there is the most central issue of all: trade policy. Latin America needs expanded overseas markets, not further restrictions. But in the United States and elsewhere, pressures for protectionism are rising. The administration and Congress must deal with a huge trade deficit and its negative impact on workers and businesses. But they must find ways to do so without erecting new obstacles to Latin American exports.

Restoring economic vitality to Latin America is imperative. It is also possible. A year ago, the world saw in the Baker plan a U.S. commitment to active political leadership in dealing with a debt problem like that which confronts Latin America. The time to assert that leadership is now.●

NAUM AND INNA MEIMAN: A DELICATE SITUATION

● Mr. SIMON. Mr. President, as I announced to my colleagues last week, Inna Meiman was told in December that she would be permitted to leave the Soviet Union to obtain medical treatment for her cancer in the West.

Unfortunately, Inna still remains in Moscow, waiting for the bureaucracy to process her visa.

I remain extremely concerned that Naum, Inna's husband, has not received permission to travel with Inna. A cancer patient needs the support of her family to maximize her chances of living. Allowing Inna to leave without Naum is both a blessing and a curse.

There are some positive indications that Inna's case may be resolved this week. I would heartily welcome the news that both Inna and Naum have been granted permission to leave.

I strongly urge the Soviets to resolve this case in a speedy manner.●

ORDER FOR RECOGNITION OF SENATOR PROXMIRE

Mr. BYRD. I ask unanimous consent that Mr. PROXMIRE be recognized for not to exceed 5 minutes on Friday, following the standing orders for the recognition of the two leaders.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM FOR FRIDAY

Mr. BYRD. Mr. President, the distinguished Republican leader may yet wish to have something to say, but we are ascertaining that right now. Until we have done that, let me proceed with a statement of the program for Friday.

Under the orders entered, Mr. President, the Senate will come in on Friday at 12 noon. Following the recognition of the two leaders under the standing order, Mr. PROXMIRE will be recognized for not to exceed 5 minutes, after which there will be a period for the transaction of routine morning business for not to exceed 1 hour, during which time Senators will be permitted to speak for not to exceed 5 minutes each.

At the conclusion of routine morning business, the Senate will resume consideration of H.R. 1 and the pending question at that time will be the amendment that has been offered by the Republican leader, Mr. DOLE. There will be no rollcall votes on Friday in connection with the legislation. The only reason for any rollcall vote, if such should occur, would be dealing with the establishment of a quorum insofar as I can foresee. No resolutions will come over under the rule. The call of the calendar under rule 8 has been waived. When the Senate completes its business on Friday, it will go over until Tuesday next at 2 p.m.

Meanwhile, committees are urged to take the opportunity to press forward on committee business.

ADJOURNMENT UNTIL FRIDAY, JANUARY 16, 1987

Mr. BYRD. Mr. President, the distinguished Republican leader has indicated to me that he has no further business to transact today, that he has no further statement that he wishes to make, and that he will not be coming to the floor for the adjournment over. Therefore, if there be no further business to come before the Senate, I move, in accordance with the order previously entered, that the Senate stand in adjournment until 12 noon on Friday next.

The motion was agreed to; and, at 4:40 p.m., the Senate adjourned until Friday, January 16, 1987, at 12 noon.

EXTENSIONS OF REMARKS

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Thursday, January 15, 1987, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

JANUARY 16

10:00 a.m.
Foreign Relations
To resume hearings on U.S. policy toward Iran.
SD-419

JANUARY 20

9:30 a.m.
Armed Services
To resume hearings on the national security strategy of the United States.
SR-222

Commerce, Science, and Transportation
To hold hearings on competitiveness challenge for U.S. industry.
SR-253

Finance
To resume hearings on the world economy and trade issues, focusing on a U.S. response to the international trade deficit.
SD-215

Rules and Administration
To hold hearings on Senate committee resolutions requesting funds for operating expenses for 1987.
SR-301

10:00 a.m.
Foreign Relations
Business meeting, to consider two treaties between the United States of America and the Union of Soviet Socialist Republics on (1) the Limitation of Underground Nuclear Weapon Tests, and the Protocol thereto, known as the Threshold Test Ban Treaty (TTBT) signed in Moscow on July 3, 1974, and (2) the Underground Nuclear Explosions for Peaceful Purposes, and the Protocol thereto, known as the Peaceful Nuclear Explosions Treaty (PNET) signed in Washington and Moscow on May 28, 1976 (Ex. N, 94th Cong., 2nd Sess.).
SD-419

Labor and Human Resources
To hold hearings to review certain implications of the Chernobyl nuclear powerplant incident.
SD-430

2:00 p.m.
Armed Services
To hold hearings on the relationship between resource constraint and U.S. military strategy.
SD-342

JANUARY 21

9:30 a.m.
Agriculture, Nutrition, and Forestry
Organizational meeting, to consider committee budget for 1987, to adopt committee rules of procedure for the 100th Congress, and to discuss subcommittee structure and assignments.
SR-332

Armed Services
To continue hearings in open and closed sessions on the national security strategy of the United States.
SD-138

Rules and Administration
To continue hearings on Senate committee resolutions requesting funds for operating expenses for 1987.
SR-301

10:00 a.m.
Environment and Public Works
Business meeting, to mark up S. 185, authorizing funds for Federal highway construction programs.
SD-406

Governmental Affairs
Business meeting, to consider pending committee business.
SD-342

Labor and Human Resources
To hold hearings on work and welfare issues.
SD-430

10:15 a.m.
Banking, Housing, and Urban Affairs
To hold oversight hearings to review Federal Savings and Loan Insurance Corporation recapitalization, emergency bank acquisitions, nonbank banks, securities powers for bank holding companies, and bank check holds.
SD-538

JANUARY 22

9:30 a.m.
Energy and Natural Resources
To hold oversight hearings on the world oil outlook.
SD-366

Finance
To resume hearings on the world economy and trade issues, focusing on a U.S. response to the international trade deficit.
SD-215

10:00 a.m.
Banking, Housing, and Urban Affairs
To continue oversight hearings to review Federal Savings and Loan Insurance Corporation recapitalization, emergency bank acquisitions, nonbank banks, securities powers for bank holding companies, and bank check holds.
SD-538

Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To hold oversight hearings on the NASA shuttle anomaly resolution activities.
SR-253

Environment and Public Works
To continue to mark up S. 185, authorizing funds for Federal highway construction programs.
SD-406

JANUARY 23

9:30 a.m.
Budget
To continue hearings in preparation for reporting the first concurrent resolution on the fiscal year 1988 budget.
SD-608

Environment and Public Works
Environmental Pollution Subcommittee
To hold oversight hearings to review problems posed by ozone depletion, the greenhouse effect, and climate change.
SD-406

Finance
Social Security and Income Maintenance Programs Subcommittee
To hold hearings on welfare reform.
SD-215

10:00 a.m.
Banking, Housing, and Urban Affairs
To continue oversight hearings to review Federal Savings and Loan Insurance Corporation recapitalization, emergency bank acquisitions, nonbank banks, securities powers for bank holding companies, and bank check holds.
SD-538

Foreign Relations
To resume hearings on U.S. policy toward Iran.
SD-419

JANUARY 26

9:30 a.m.
Armed Services
To resume hearings on the national security strategy of the United States.
SD-138

10:00 a.m.
Special on Aging
To hold hearings on catastrophic health care costs.
SD-628

JANUARY 27

9:30 a.m.
Armed Services
To continue hearings in open and closed sessions on the national security strategy of the United States.
SR-222

10:00 a.m.
Foreign Relations
To resume hearings on U.S. policy toward Iran.
SD-419

2:00 p.m.
Armed Services
To continue hearings on the national security strategy of the United States.
SR-222

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

JANUARY 28

9:30 a.m.
Armed Services
To continue hearings on the national security strategy of the United States.
SR-222

10:00 a.m.
Energy and Natural Resources
Business meeting, to consider pending calendar business.
SD-366

Labor and Human Resources
To resume hearings on work and welfare issues.
SD-430

JANUARY 29

9:30 a.m.
Commerce, Science, and Transportation
Aviation Subcommittee
To hold oversight hearings on aviation safety.
SR-253

JANUARY 30

9:30 a.m.
Commerce, Science, and Transportation
Aviation Subcommittee
To continue oversight hearings on aviation safety.
SR-253

FEBRUARY 2

10:00 a.m.
Joint Economic
To hold hearings on the state of the economy.
SD-628

FEBRUARY 3

9:30 a.m.
Energy and Natural Resources
To hold oversight hearings on the current status of the Department of Energy's nuclear waste activities.
SD-366

FEBRUARY 4

9:00 a.m.
Select on Indian Affairs
To hold hearings to review those programs which fall within the jurisdiction of the committee as contained in the President's proposed budget for fiscal year 1988.
SD-G50

9:30 a.m.
Foreign Relations
To resume hearings on U.S. policy toward Iran.
SD-419

10:00 a.m.
Agriculture, Nutrition, and Forestry
To hold hearings to review those programs which fall within the jurisdiction of the committee as contained in the President's proposed budget for fiscal year 1988.
SR-385

FEBRUARY 5

9:30 a.m.
Energy and Natural Resources
To resume oversight hearings on the current status of the Department of Energy's nuclear waste activities.
SD-366

FEBRUARY 18

10:00 a.m.
Labor and Human Resources
Business meeting, to consider pending calendar business.
SD-430