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Senate

The Senate met at 9:30 a.m., and was called to order by the President pro tempore [Mr. THURMOND].

The PRESIDENT pro tempore. Today's prayer will be offered by our guest chaplain, the Reverend Charles Hart, of Salem, OR.

We are pleased to have you with us.

PRAYER

The guest chaplain, the Reverend Charles F. Hart, of the Associated Churches of God in Oregon and Southwest Washington, offered the following prayer:

Eternal God, our Maker, our God most holy, Your unconditional love surrounds us, and everywhere we look, we see the beauty of Your creative power. We join our hearts with the psalmist who prayed, ''O Lord, our Lord, how majestic is thy name in all the Earth.'' You are a God of refuge and strength and a very present help in times of important decisions that the men and women of the U.S. Senate will face from day to day.

Our prayer this day, O sovereign Lord, is for Your limitless, fathomless, most holy wisdom and love to permeate these great leaders of our great Nation as they lead the United States of America into the 21st century. May our Nation always be known as peacemakers and peacekeepers.

May the grace and the glory of our Lord Jesus Christ be with you always. Amen.

The PRESIDENT pro tempore. The able Senator from Oregon is recognized.

THE REVEREND CHARLES F. HART

Mr. HATFIELD. Mr. President, it is a pleasure today to introduce to my colleagues the Reverend Charles Hart. Reverend Hart understood Christ's words when he told his disciples, ''Where your treasure is, there your heart will be also.'' Charles Hart's treasure has been in his service to God by acting on his faith with the skills that he has been given and blessed with.

Reverend Hart earned his undergraduate degree at Arlington College in Long Beach, CA. While Reverend Hart's first love was baseball, finance and his faith won out in his life. He began his career with Security Pacific Bank while at the same time serving as the associate pastor of South Bay Church of God in Torrance, CA.

Reverend Hart's skill in finance led to a successful career in the secular world of banking. While this type of success can bring satisfaction, it did not bring to him the deepest satisfaction that comes from serving God full time. At that point, Reverend Hart decided to use his skills as a development officer for a small Christian liberal arts college in California. Reverend Hart has continued in his capacity by lending financial expertise to Christian institutions throughout this career.

From Azusa Pacific University, he went on to Warner Pacific College in Portland where he still serves as a member of the board of trustees. He has also assisted Wycliffe Bible Translators in raising funds to translate God's word to all nationalities and is currently working with the Associated Churches of God in Oregon and Southwest Washington in securing expansion funds. Reverend Hart has also worked to share the treasure of his faith with others in the business community through his 25-year involvement with the Christian Businessmen's Committee.

God provides us all with special skills, and Reverend Hart is a prime example that we can use those skills to better ourselves and the world in which we live.

Again, on behalf of my Senate colleagues, we are privileged that Reverend Hart is willing to fulfill the duties of Senate Chaplain today, and I would like to officially welcome him to this Chamber. Also accompanying him today is his wife, Sally, and his son, Ken Hart, who is my press secretary, and Ken's wife, Sheila.

SCHEDULE

Mr. HATFIELD. Mr. President, on behalf of the majority leader, this morning the Senate will immediately resume consideration of the energy and water appropriations bill. Under the agreement reached last night, there will be 30 minutes of debate prior to a series of rollcall votes which will begin at 10 a.m. this morning. Senators should be aware that the first vote in the sequence will be the normal 15 minutes in length with the remaining votes limited to 10 minutes each.

Once again, the majority leader asks for the cooperation of all Members in allowing us to proceed to these votes in an orderly and timely fashion.

Senators should be prepared to remain in or around the Chamber during these stacked votes. During this voting sequence, the Senate will also be voting on amendments and completing action on the legislative appropriations bill. The Senate may remain in session late this evening to consider other available appropriations bills and conference reports that are available. Therefore, additional votes may occur.

ENERGY AND WATER DEVELOPMENT APPROPRIATIONS ACT, 1997

The PRESIDING OFFICER (Mr. BROWN). Under the previous order, the Senate will now resume consideration of S. 1959, which the clerk will report.

The assistant legislative clerk read as follows.

A bill (S. 1959) making appropriations for energy and water development for the fiscal

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

year ending September 30, 1997, and for other purposes.

The Senate resumed consideration of the bill.

Pending:

McCain amendment No. 5094, to clarify that report language does not have the force of law.

McCain amendment No. 5095, to prohibit the use of funds to carry out the advanced light water reactor program.

Bumpers amendment No. 5096, to reduce funding for the weapons activities account to the level requested by the Administration.

Johnston (for Wellstone) amendment No. 5097, to ensure adequate funding for the biomass power for rural development program.

Grams amendment No. 5100, to limit funding for the Appalachian Regional Commission and require the Commission to be phased out in 5 years.

Domenici (for McCain) amendment No. 5105, to strike section 503 of the bill.

Feingold amendment No. 5106, to eliminate funding for the Animas-LaPlata participating project.

The PRESIDING OFFICER. Who seeks recognition?

Mr. HATFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum is noted.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. DOMENICI. Mr. President, parliamentary inquiry. What is the business before the Senate?

The PRESIDING OFFICER. Currently, there is 20 minutes equally divided between the Senator from New Mexico and the Senator from Louisiana. At 9:50 a.m., we will recognize Senator MCCAIN for remarks concerning his amendment.

Mr. DOMENICI. Let me just state for Senator JOHNSTON's benefit, we have, as he probably knows, reached an agreement with Senator MCCAIN on his report language. I think he will find that satisfactory.

So, when Senator MCCAIN arrives, when his time has expired, we will do this second-degree amendment, and then we will vote, if he desires a rollcall vote; if not, we will adopt the amendment.

What would be the next order of business after that amendment is disposed of?

The PRESIDING OFFICER. The unanimous-consent order from last night talks about a 10 a.m. vote, with 2 minutes allotted to each side and a vote on the McCain amendment.

Mr. DOMENICI. What is the next amendment after that, Mr. President?

The PRESIDING OFFICER. Following that, amendment No. 5095, which is another McCain amendment.

Mr. DOMENICI. On advanced light water reactor?

The PRESIDING OFFICER. That is correct.

Mr. DOMENICI. And there are 2 minutes on each side on that?

The PRESIDING OFFICER. Again, 2 minutes on that, and then we will move to a Bumpers amendment No. 5096.

Mr. DOMENICI. I am going to yield now—we only have about 6 minutes—if the Senator from Louisiana would like to speak to the light water reactor amendment or whatever he would like to speak to.

AMENDMENT NO. 5095

Mr. JOHNSTON. Mr. President, I thank my distinguished colleague from New Mexico. There is a McCain amendment on cutting the funds, $22 million for the light water reactor. This is the fifth year of a 5-year program.

There are many reasons to be against the McCain amendment, but the clearest, most indelible, most compelling reason is that to cut these funds now would subject the U.S. Government to greater penalties for termination costs than it would be to finish it.

Moreover, the U.S. Government would lose, according to Terry Lash, who is the Director of the Department of Energy office in charge of this, the U.S. Government would lose up to $125 million to which they would otherwise be entitled. The reason for that is, the AP–600, which is the reactor, which is 90 percent complete would be completed by this last year. When the first of those is sold, the Federal Government is entitled to a $25 million recoupment, plus $4 million for every reactor sold after that, plus the United States Government is entitled right now to $3 million from GE for reactors already sold under this program to Taiwan and others in the pipeline.

For the United States to, in effect, break their contract and terminate, subjects the Government not only to a greater amount in loss but the loss of future revenues as well.

Mr. President, the AP–600, which is the Westinghouse reactor, which would be finished under this program, is exactly what all of us in the Congress have been saying all this time that we ought to be doing; that is, it is a passively safe reactor, it is one generically designed and is, I believe, going to be a very hot item, particularly in Asia. The Chinese have already obligated themselves to 6,000 megawatts of nuclear power between now and the year 2000 using Russian technology, Canadian technology, and French technology, because we do not permit our nuclear technology to go to China after Tiananmen Square. We expect that that negotiation will take place in the not too far distant future to allow American nuclear technologies to get in on that huge market.

In the first decade after the year 2000, the Chinese expect to do another 11,000 megawatts, many, many billions of dollars, and they have a longstanding relationship with Westinghouse, they like the AP–600, and we ought to have it finished.

So, Mr. President, you can finish it for less money than to terminate it, and then you lose all the additional funds you would get.

So, Mr. President, I hope we will not be so foolish as in a fit of antinuclear pique to go out and accept one of these bumper-sticker-type arguments that this is corporate welfare. The fact of the matter is that the corporations involved here, relying upon the Government, have put up almost $500 million to get this program finished, and now it takes another $22 million to finish the program and the Congress is saying, ''Let's not do it.'' If this argument was to have been made and this decision was to have been made, it should have been made back in 1992 when the Energy Policy Act was up, when the issue was debated and when the Congress decided to go ahead with the program.

To stop it at the 11th hour at greater cost than to complete it is nothing short of madness, which is not to say that the Congress has not done that kind of thing before. We have done some exceedingly foolish things in this Senate before, as my colleagues all know. But at least we should not go into this one, which not only would be exceedingly foolish but exceedingly simple and exceedingly easy to understand. It ought to be easy for anyone to understand that you should not terminate a program that costs more money to terminate than to continue.

Moreover, there would be a huge amount of potential profits to be lost and a very, very useful technology.

One final note, Mr. President. I note that the United States is now getting serious about global warming, and in the New York Times of July 17, 1996, there is an article entitled ''In a Shift, the U.S. Will Seek a Binding Agreement by Nations To Combat Global Warming.''

Mr. President, if we are, in fact, serious about global warming—and I will submit that to the conscience and intelligence and state of knowledge of each Senator as to whether you are or not serious about global warming—I can tell you that there is one solution that stands out above all the rest, and that is nuclear energy, if you really are serious about global warming, because how else are you going to generate large amounts of power?

We have a huge amount of money in this bill for renewables. We have increased it. You know, I am for it. But, Mr. President, if you think you are going to solve global warming by something short of major powerplants at a time when there is huge growth in the world, industrial growth, I believe, Mr. President, you would be mistaken.

All over the Pacific rim where there are these enormous rates of growth, unparalleled in the history of the world for a region of such huge populations to be growing at such leaps and bounds, there is also an air pollution problem of unprecedented severity. That is why the Chinese and the Indonesians and the Japanese are very serious about a big nuclear program. All of those nations are. And American technology should be able to compete. This technology, which is almost complete,

about 90 percent complete, would be America's best way to get into that global competition.

So, Mr. President, I hope my colleagues will vote against the McCain amendment when it is brought up, the McCain amendment with respect to the advanced light water program.

The PRESIDING OFFICER. The Senator's time has expired.

Under the previous order, the Senator from Arizona has the time from 9:50 to 10 a.m. The Senator from Arizona is recognized.

AMENDMENT NO. 5094

Mr. MCCAIN. Mr. President, I want to thank the Senator from New Mexico for his agreement on our changes to his amendment. I appreciate that very much. I do want to make it clear, though, that we are talking about a very important issue here; that is, the differentiation between report language and bill language. The report language is sometimes ignored. I understand that many of our Members are very frustrated from time to time when report language is ignored.

The administration does sometimes ignore report language at its own peril. We know that if the administration acts in direct contradiction to report language that Members will come up with numerous ways to force the administration to do their bidding.

The effective language contained in this bill—before the amendment—I believe was dangerous for two reasons. First, by giving report language the force of law, we essentially passed statutory language that has not been agreed to by both Houses and signed into law. This is, on its face, unconstitutional.

Mr. President, let me just quote from Justice Scalia where he said:

> As anyone familiar with modern-day drafting of congressional committee reports is well aware, the references to the cases were inserted, at best by a committee staff member on his or her own initiative, and at worst by a committee staff member at the suggestion of a lawyer-lobbyist; and the purpose of those references was not primarily to inform the Members of Congress what the bill meant. . .

Mr. President, as I have been around here about 10 years, I agree with Justice Scalia. I have seen it time after time. Mr. President, the D.C. Circuit Court, in International Brotherhood of Electrical Workers, Local Union No. 474 versus NLRB noted:

> . . . [w]hile a committee report may ordinarily be used to interpret unclear language contained in a statute, a committee report cannot serve as an independent statutory source having force of law.

And in Rubin versus U.S., the eighth circuit court stated:

> A conference report, moreover, is just that—a report, not a legislative act requiring the votes of the requisite number of legislators.

Second, by codifying report language, which is written by the staffs of the 13 full committee chairmen, you have essentially disenfranchised every other Senator of his or her right to amend legislation. Report language cannot be amended. I cannot stand on the floor of the Senate and try to amend and change report language. The minority party cannot change report language. No one but that chairman that writes it can dictate what is in report language.

Mr. President, codifying report language is creative budget chicanery and an affront to this institution and the Constitution, and it should not be done. If a Member of Congress wants to force the administration to take a certain specific action, whether to spend money on a project or do something else, then that Senator has the right to offer an amendment.

We all know the rules here. An amendment can be debated, further amended, filibustered, or tabled. But report language cannot be touched. Therefore, it should not be codified into law.

Mr. President, the Office of Management and Budget specifically mentioned its opposition to this language in the statement of administration policy. OMB is correct in that this provision should be struck from the bill.

I recognize that report language has been codified in the past. It was wrong then, and it is wrong now. We should not do this ever, in my view.

Mr. President, I appreciate the concern of the Senator from New Mexico concerning the lack of cooperation on the part of the administration to carry out the will of Congress and the will especially expressed in legislation that he has so much expertise and knowledge of, and I respect all that.

I appreciate the fact that Senator DOMENICI has modified his amendment. I also understand why he would want a report on how the Department is spending those appropriated funds. I would point out in passing, although I certainly agree with the amendment, that one of my goals has been to reduce the number of reports that flow over to the Congress and are demanded by the Congress of the executive branch.

But, in this case, I understand the urgency that the Senator from New Mexico feels is associated with this language and with the efforts that he has made on behalf of the people of this country and, in the form of his chairmanship, this very proper appropriations subcommittee.

Mr. President, I yield the floor.

Mr. DOMENICI. The leader has asked that I make the following unanimous-consent request. Mr. President, I ask unanimous consent that the vote schedule at 10 a.m. be postponed until 10:15—that is because of an emergency that our leader recognizes—with the time before that being equally divided, if we want to use the time. We can yield it to other Senators.

I say to Senator MCCAIN, let me thank you for your efforts with reference to the report language that essentially was put in this bill at my request. I do understand that language that I have in the bill that says:

> Notwithstanding [other provisions of the law,] funds made available by this Act . . . shall be available only for the purposes for which they have been made available by this Act and only in accordance with the recommendations contained in this report.

We are going to strike that with your amendment, and we are going to offer a second-degree amendment that requires regular reports to this subcommittee on how it has complied with this bill.

I am going to cite only four or five examples of what I consider egregious departures from the intent of the bill. I will give you one. We worked very hard on technology transfer, and we got that to a dollar number of $150 million. It had been higher. The administration wanted less. We worked it out. We debated it. The Secretary decided to use only $50 million of it, and to put $100 million somewhere else at her choosing.

That is nice. It is just that, for many of us who worked hard on these issues, it is sort of insulting to go through all this work and have it happen. We accepted, after debate, an amendment by Senator KERREY with reference to a certain math and science initiative which the Department was requested and in report language required to do it. It was a half million dollars. Totally ignored. The money went somewhere else.

The McCain amendment would strike ''and only in accordance with the recommendations contained in this report.''

Why is the language necessary?

The act provides funds in very large chunks. For example, the act provides $2.749 billion for energy supply, research, and development.

Only the report indicates that $247 million should go to solar and renewably energy programs—that is not in the act.

Only the report indicates that $389 million is for biological and environmental research which funds the Human Genome Program—that is not in the act.

Without the proposed language, the DOE does not have to follow the Senate's guidance.

Last year, I worked hard to provide $150 million for technology transfer—but it was only in the report and so DOE provided only $50 million.

Last year, Senator KERREY of Nebraska included report language that $500,000 should go to the Nebraska math and science initiative—DOE did not provide the money—they did not have to, it was just report language.

Last year, Congress eliminated funding for in-house energy management—private sector companies now offer the service for free. But, Congress only eliminated the program in report language so DOE provide $4 million for the program—after Congress thought we had eliminated it.

Financial irregularities abound at the DOE:

Funds have been reprogrammed from their original purpose to purposes specifically denied by the Congress last year;

The Department created a furlough relief fund to augment appropriations specifically reduced by Congress;

A recent draft inspector general report noted that the Department deliberately ignored a statutory funding limitation on the use of representational expenses and spent more than appropriated for receptions.

The language is necessary for two reasons:

First, it is the only way funding for programs of interest to Members can be assured, and;

Second, without it, the Department can ignore congressional intent.

Frankly, the Secretary and her administrative assistants understand the concern we have about departures from what is the clear intent. I will just ask those who are for renewable energy, if they know that we just put a very large sum of money in, and in report language we recommend the renewables that you just alluded to, I say to Senator JOHNSTON.

Obviously, if the Secretary wants to, the way they act on other things, they could decide to cut that in half and spend the money elsewhere. Now, we go through a lot of effort on those kinds of issues. Frankly, I believe we must do something.

So you are right. My language went too far. I think language that comes after it saying we want you to report to us, we will set the right tone.

AMENDMENT NO. 5121 TO AMENDMENT NO. 5094

(Purpose: Second degree amendment to the McCain first degree amendment regarding report language)

Mr. DOMENICI. Mr. President, I send a second-degree amendment to the desk, to the McCain amendment.

The PRESIDING OFFICER. Is there objection to consider the second-degree amendment? Without objection, it is so ordered. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from New Mexico [Mr. DOMENICI] proposes an amendment numbered 5121 to amendment No. 5094.

Mr. DOMENICI. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

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

On line 3 of amendment number 5094, strike ''Act'' and insert in lieu thereof the following: ''Act. The Department of Energy shall report monthly to the Committees on Appropriations of the House and Senate on the Department of Energy's adherence to the recommendations included in the accompanying report.''

Mr. DOMENICI. Now, Mr. President, if Senator MCCAIN is willing, we will adopt the second-degree amendment by voice vote.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

Mr. BYRD. I compliment the Senator from Arizona on this amendment. It is the first time that I have been aware of language that, in effect, incorporates the committee report language as a part of the bill. The committee report language cannot be amended, and if we are going to start down this road, we are going to rue the day we began on this journey.

I hope we will not have a voice vote in this. Have the yeas and nays been ordered?

The PRESIDING OFFICER. The yeas and nays have been ordered on the underlying amendment.

Mr. BYRD. I think we ought to have a vote and let that record be there for all to see in the future.

Let me ask a question without losing my right to the floor, Mr. President. Does the distinguished Senator from Arizona know of any other bill, appropriations bill, in the recent past or ever in the past, that has utilized this approach of incorporating amendment language as a part of the bill?

I have been unaware of it if this has been done before.

Mr. MCCAIN. Answering a question like that to the distinguished Senator from West Virginia is like asking a minor league baseball player to pitch the World Series.

The Senator from West Virginia is all corporate knowledge on these issues, and I bow to his knowledge. He has been intimately involved in this process for so long. I believe I am correct in responding when I say I know of no other case, except one case that took place sometime in the mid-1980's when this particular instance happened, but I have not heard of it before.

I ask in return, does the Senator from West Virginia know of any place where this happened?

Mr. BYRD. Mr. President, I do not know, but that is not to say that it has not been done. It may have escaped my attention, but whether or not it has been done heretofore, I think we ought to put a stop to it if it has been done. I think it ought to be stopped now.

I congratulate the Senator on his amendment. I shall object to vitiating the yeas and nays on this amendment if the request is made.

The PRESIDING OFFICER. The question is on agreeing to the second-degree amendment to the McCain amendment.

The amendment (No. 5121) was agreed to.

AMENDMENT NO. 5095

Mr. MCCAIN. Mr. President, I want to discuss very briefly the other amendment that I have pending. I, of course respect the views of the Senator from Louisiana. Let me state at the beginning I am a supporter of nuclear energy and I believe at some point in our history we may turn back to that as a source of power for our energy needs.

Continuing the advanced light-water reactor program is a mistake. I point out that this program has already received more than $230 million over the past 5 years. This amendment does not create any termination costs of the program. The contract between Westinghouse and the Department of Energy specifically provides reimbursement for costs incurred as a result of termination, ''shall be subject to the availability of appropriated funds.''

General Electric recently announced it is canceling its simplified boiling water reactor after receiving $50 million from the Department of Energy under the program because ''extensive evaluations of the market competitiveness of the 600-megawatt-size advanced light-water reactor have not established the commercial viability of these designs.'' The Westinghouse AP–600 is a similarly designed reactor that is scheduled to receive advanced light-water reactor support and is of a similar size and design and is facing similar market forces that led General Electric to cancel that program.

These facts are significant because the Government cannot recoup its costs for reactors not sold. The Westinghouse reactor is like the canceled reactor and will likely never be sold, and no costs can be recouped.

Last year, there was opposition to end funding for the advanced light-water reactor program by arguing that this year, fiscal year 1996, would be the fifth year of the 5-year program. Now, a year later, the same argument is being made.

The way to end this taxpayer subsidy is by the will of the Congress exercised here today. Mr. President, I hope my colleagues will support the amendment. I yield the floor.

AMENDMENT NO. 5094, AS AMENDED

Mr. DOMENICI. Mr. President, on the first amendment by Senator MCCAIN, as amended by the second-degree amendment, we are working to try to get that adopted.

Senator BYRD, let me suggest we are ready to acknowledge openly that the amendment went too far. The intention, I still feel very comfortable with, because I believe the Department truly in egregious ways violates the intent and spirit by moving money around, but I think Senator BYRD has made the case, and Senator MCCAIN has made the case. Clearly it is not going to happen.

I think the Senate knows that we are not going to be doing this, but I would like to make sure that what comes out of the Senate is kind of balanced, that the Department does not get the idea that they have all the latitude in the world and will never be called to task. I think this would better be served, overall, if we just proceed to adopt the amendment by voice vote.

Mr. BYRD. Mr. President, if the distinguished Senator will yield.

Mr. DOMENICI. I am happy to yield to the Senator.

Mr. BYRD. I think the two managers have made a very salient point. I have discussed this matter with them privately and the majority manager has stated the case well. I am willing to yield to their request that we vitiate the yeas and nays but I hope the distinguished Senator from Arizona will continue his superb surveillance of bill

language in the future so that we will be aware of any future attempt to incorporate, in essence, incorporate committee report language into the bill as a law.

I thank the distinguished Senator for yielding.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the yeas and nays be vitiated, and we proceed to the McCain amendment, as amended.

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

The amendment before the Senate is amendment 5094, as amended with the Domenici amendment. The question is on agreeing to the amendment.

The amendment (No. 5094), as amended, was agreed to.

Mr. JOHNSTON. I move to reconsider the vote.

Mr. DOMENICI. I move to table the motion.

The motion to lay on the table was agreed to.

AMENDMENT NO. 5095

The PRESIDING OFFICER. The amendment under consideration now is amendment numbered 5095.

The Chair reminds Senators that by unanimous consent rollcall votes will commence at 10:15. Sponsors of the amendment and their opponents have 2 minutes each with which to comment on the amendment.

Mr. DOMENICI. Mr. President, it is the understanding of Senator MCCAIN from Arizona and the manager of the bill that Senator MCCAIN has an additional 10 minutes reserved on the light water reactor amendment. He has indicated to me he would like to vitiate that.

Mr. MCCAIN. That was before final passage that I ask to vitiate that.

Mr. DOMENICI. Yes, 10 minutes before final passage. He asks that that be vitiated at this point. On his behalf, I ask unanimous consent that it be vitiated.

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

Mr. DOMENICI. Now, Mr. President, parliamentary inquiry. Has all the time provided been used on the second McCain amendment on the light water reactor?

The PRESIDING OFFICER. Each proponent and opponent are reserved 2 minutes each for debate. By previous agreement, votes will not commence until 10:15.

Mr. DOMENICI. Senator MCCAIN does not desire any further time at this point, and Senator JOHNSTON needs no more time. I ask unanimous consent that the 2 minutes each be vitiated.

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

Mr. DOMENICI. Mr. President, I move to table the second McCain amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to table amendment No. 5095.

The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Kansas [Mrs. FRAHM] is necessarily absent.

Mr. FORD. I announce that the Senator from Rhode Island [Mr. PELL] is necessarily absent.

I also announce that the Senator from Rhode Island [Mr. PELL] is absent because of a funeral.

I further announce that, if present and voting, the Senator from Rhode Island [Mr. PELL] would vote ''no.''

The result was announced—yeas 53, nays 45, as follows:

[Rollcall Vote No. 249 Leg.]

YEAS—53

Abraham	Exon	Mack
Bennett	Faircloth	McConnell
Bingaman	Ford	Moseley-Braun
Bond	Gorton	Murkowski
Breaux	Grams	Nickles
Brown	Hatch	Nunn
Burns	Heflin	Pressler
Byrd	Helms	Santorum
Campbell	Hollings	Shelby
Cochran	Inhofe	Simon
Conrad	Inouye	Simpson
Coverdell	Johnston	Smith
Craig	Kassebaum	Specter
D'Amato	Kempthorne	Stevens
Daschle	Kyl	Thomas
DeWine	Lieberman	Thurmond
Dodd	Lott	Warner
Domenici	Lugar	

NAYS—45

Akaka	Glenn	Levin
Ashcroft	Graham	McCain
Baucus	Gramm	Mikulski
Biden	Grassley	Moynihan
Boxer	Gregg	Murray
Bradley	Harkin	Pryor
Bryan	Hatfield	Reid
Bumpers	Hutchison	Robb
Chafee	Jeffords	Rockefeller
Coats	Kennedy	Roth
Cohen	Kerrey	Sarbanes
Dorgan	Kerry	Snowe
Feingold	Kohl	Thompson
Feinstein	Lautenberg	Wellstone
Frist	Leahy	Wyden

NOT VOTING—2

Frahm	Pell

The motion to lay on the table the amendment (No. 5095) was agreed to.

Mr. JOHNSTON. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. DOMENICI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 5096

The PRESIDING OFFICER. According to the previous agreement, there are now 2 minutes equally divided on the motion to table the Bumpers amendment No. 5096. The Senate is reminded that the rollcall vote on the motion to table the Bumpers amendment will be reduced to 10 minutes.

The Senate will be in order. Members who wish to converse, please retire to the cloakrooms.

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas is recognized.

Mr. BUMPERS. This amendment deals with an account in this bill called weapons activities. This account has $516 million more than it had last year, which is a 14-percent increase—14 percent. Incidentally, it is $300 million above the House, $269 million more than the President requested. My amendment simply takes them down to a 7-percent increase.

It is the account where you deal with testing. And we have had a testing moratorium for 3 years. Under the START Treaty we are going to go from 24,000 weapons and 25 types to 3,500 and 7 types. We are increasing the budget to do all of that by 14 percent. If they cannot get by with a 7-percent increase, they ought to be abandoned.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. BUMPERS. Mr. President, has a motion been made to table my amendment?

Mr. DOMENICI. The motion has been.

Mr. BUMPERS. Have the yeas and nays been ordered?

Mr. DOMENICI. The yeas and nays have been ordered.

Mr. President, the United States is committed now to a new stockpile stewardship program because we no longer will do underground testing. This amendment will take $269 million out of the stockpile stewardship, which means the building of the scientific capacity to make sure our nuclear weapons are adequate and trustworthy, a whole new effort on the part of the Department of Energy's DOD activities.

Stockpile management is part of that. The maintenance of backup facilities to this stockpile stewardship are in States like Texas, Missouri, and INEL in Idaho, and also there is program direction for that entire new program.

Frankly, in essence, we get the same increase in defense spending that the other parts of defense get. I think if we want a robust nuclear deterrent that is trustworthy and safe, and do not want to build any new ones, we better not take any risks with this part of the defense budget. And that is why I move to table. I believe we are right in our assessments. We want to leave that money in.

The PRESIDING OFFICER. The Senator's time has expired.

Under the previous order, the question now occurs on agreeing to the motion to lay on the table the amendment No. 5096 offered by the Senator from Arkansas, [Mr. BUMPERS]. The yeas and nays have been ordered. Those wishing to table the Bumpers amendment will vote yea. Those opposing the tabling of the Bumpers amendment will vote nay. The clerk will call the roll.

The bill clerk called the roll.

Mr. NICKLES. I announce that the Senator from Kansas [Mrs. FRAHM] is necessarily absent.

Mr. FORD. I announce that the Senator from Rhode Island [Mr. PELL] is necessarily absent.

I also announce that the Senator from Rhode Island [Mr. PELL] is absent because of a funeral.

I further announce that, if present and voting, the Senator from Rhode Island [Mr. PELL] would vote ''nay.''

The result was announced—yeas 61, nays 37, as follows:

[Rollcall Vote No. 250 Leg.]

YEAS—61

Abraham	Gorton	McConnell
Ashcroft	Gramm	Murkowski
Bennett	Grams	Nickles
Bingaman	Grassley	Nunn
Bond	Gregg	Pressler
Breaux	Hatch	Reid
Bryan	Heflin	Robb
Burns	Helms	Roth
Campbell	Hollings	Santorum
Chafee	Hutchison	Shelby
Coats	Inhofe	Simpson
Cochran	Inouye	Smith
Cohen	Jeffords	Snowe
Coverdell	Johnston	Specter
Craig	Kassebaum	Stevens
D'Amato	Kempthorne	Thomas
DeWine	Kyl	Thompson
Domenici	Lott	Thurmond
Faircloth	Lugar	Warner
Feinstein	Mack	
Frist	McCain	

NAYS—37

Akaka	Feingold	Lieberman
Baucus	Ford	Mikulski
Biden	Glenn	Moseley-Braun
Boxer	Graham	Moynihan
Bradley	Harkin	Murray
Brown	Hatfield	Pryor
Bumpers	Kennedy	Rockefeller
Byrd	Kerrey	Sarbanes
Conrad	Kerry	Simon
Daschle	Kohl	Wellstone
Dodd	Lautenberg	Wyden
Dorgan	Leahy	
Exon	Levin	

NOT VOTING—2

Frahm	Pell

The motion to lay on the table the amendment (No. 5096) was agreed to.

AMENDMENT NO. 5106

The PRESIDING OFFICER. The pending amendment is the Feingold amendment number 5106.

The Senator from Colorado is guaranteed 10 minutes under the previous agreement.

Mr. DOMENICI. Mr. President, the Senator from Colorado has been patiently waiting and attending our sessions. He is not on the floor.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. DOMENICI. Mr. President, I ask to move now to the Feingold amendment.

The PRESIDING OFFICER. The pending question is the Feingold amendment.

Who seeks recognition?

Mr. DOMENICI. Mr. President, this matter is of great importance to the Senator from Colorado.

Mr. CAMPBELL. Thank you, Mr. President, and I thank my friend from New Mexico.

Mr. President, it is said that the great Chief Ten Bears in his later life after being deprived of his freedom by Government troops, was asked if the U.S. Government had made his people any promises. His answer was this: ''They made us many promises, more than I can remember. And they broke all but one: they promised to take our land and they took it.''

Mr. President, no matter how you sugarcoat this bitter pill—you can coat it in economic terms, you can coat it in environmental terms, you can coat it in endangered species terms but under all the sugarcoating, the bitter pill of another broken promise remains.

I was not here when the Animas La Plata was authorized in 1968. Few of my colleagues were, but I knew Wayne Aspinall, the congressman of Western Colorado who had such great vision to include it in the original authorization, with both the Central Arizona Project and the Central Utah Project—of the three, only the Animas La Plata languishes. Wayne Aspinall was a man of great vision who helped the desert bloom where only parched land had been.

Unlike the Senator from Wisconsin, I was here in 1988 when, after careful negotiations between the two Colorado Indian tribes, the States of Colorado and New Mexico, and nine separate Government agencies, we reached an agreement to share the scarce water in the San Juan Basin between Indians and their non-Indian neighbors. The tribes agreed to drop their lawsuit against the Federal Government, which they would have surely won since they have such ironclad priority rights in water matters, in return for a cash settlement and an agreement by this Government to proceed with a water storage project for both Indian and non-Indians to share. Two public votes were taken of all the people affected, and both the repayment contract for the water users and the compromise itself were overwhelmingly accepted by the people of southwest Colorado and northern New Mexico.

Still, as in matters such as this, there will always be voices of opposition, some saying we went too far and others saying we did not go far enough. We in this body have all experienced that reaction. However, since the 1988 agreement and subsequent law that I authored which implemented the agreement, those voices of opposition have made up in shrillness what they lack in reason and fairness. Yet, even above the Sierra Club's carping, virtually every elected official from the local level to the President of the United States supports this project. In fact, President Clinton had $10 million designated in his budget for this project. President Bush supported it, as did President Reagan before him. All of the Colorado delegation, save one person, support the project and voted for the necessary appropriations on the House side. The lone Member who opposed it neither lives in Colorado nor cares about abiding by this agreement, even though she voted for it in 1988. Our Governor supports it, our attorney general supports it, and all of Colorado's major newspapers support it.

I ask those who want to strip the appropriation for this project just how is the State of Colorado going to be repaid under the Feingold amendment, if it prevails, for the $30 million we have spent of taxpayers' money as our part of the agreement? Who is going to repay the almost $60 million of taxpayers' money that the Federal Government has paid both of the tribes to drop the original lawsuit? Who will pay the hundreds of Indian and non-Indian ranchers who risk losing their water rights should the tribes go back to court, win the lawsuit, and claim their rightfully owned water, thereby drying up what some say is as much as one-fourth of all non-Indian irrigated farmland in the valley? Who pays for litigation when the Department of the Interior is put in the position where the Bureau of Indian Affairs has to defend the Indian tribes against its fellow agency, the Bureau of Reclamation, for nonperformance? The answer is that the taxpayer pays untold litigation fees on both sides.

While many colleagues bring charts and graphs to the floor of the Senate to emphasize a point—there seems to be a common belief in this body that if you have a graph or chart, or it is written somehow, that it automatically becomes true—I bring two objects of great reverence to traditional Indian people. These objects are from a culture that did not need protection from one another by a written contract. They represent a culture that believed your word was your bond, in which honor was held in highest esteem. They represent a culture which never broke a treaty with the U.S. Government. Traditional Indian people committed nothing to written contract and yet believed that great nations, like great men, must honor their agreements. Yet, from the time the first Indian affixed his fingerprint to the first document with the U.S. Government, which he could not read and little understood, he has learned the hard way that all too often this Government does not keep its word.

This is a pipe, Mr. President. In traditional Indian beliefs, before any words of import were spoken, a pipe like this was smoked. The traditional belief is that the smoke would take your words to the Creator. One does not lie or break his word to the Creator.

This is a fan, a wing from Wanbli, the eagle who was designated by the Creator as the keeper of the Earth to oversee his children and to see that they did the right thing. I submit that the actions of this body, which begins its deliberations each day with prayer, could learn at least as much from the objects as they can from all the paper documents to which this Government subscribes. Why be a party to a legal document if we are going to break it?

Just last week, this body reaffirmed its commitment to North Vietnam, of all places, to the tune of $1.5 million in order to teach them the American system of law. Shall we also teach them

that under our system of law it is perfectly acceptable to deceive people, to enter into agreements and to unilaterally break our word? How can we teach the Vietnamese a code of conduct based on legal agreements if we do not practice that code ourselves? Perhaps we should tell them that these principles of law do not apply to American Indians. They apply to everyone else, but not to American Indians. It is easy to break our word to American Indians—we have done it lots of times.

In fact, Mr. President, from 1492 at Columbus' landing until the 1900's when the new century began, according to the National Congress of American Indians, 473 treaties were signed. Of those, 371 were ratified by this body, the U.S. Senate. Some, as you know, were written virtually at gunpoint and others through clever maneuvering on the part of Government negotiators. Yet, as the American Indian lost more and more, as they lost their land, as they lost their water, as they lost their families and, finally, their freedom, they never broke a single treaty with the U.S. Government. How many has the Government broken with the Indians? I defy anybody in this Chamber to give me that number. I had to look it up myself. Mr. President, they broke every single one. They broke every one with the American Indian.

I note with interest, Mr. President, there are a number of Indian people sitting in the gallery today as silent witnesses to our deliberations. I have to say that I salute them for their patience. I ask my colleagues to look into their hearts before voting on this amendment. Do not just compare statistics and charts and graphs and notes. Ask yourself, do you want to add one more broken promise to this infamous total of broken promises? Do you want to make this vote No. 474 in broken promises? America is better than this, Mr. President. The American people are better than this. Let us keep our promise. Let us do the right thing and table this amendment.

Mr. President, at this time, I ask unanimous consent to have printed in the RECORD a number of letters of support for this project. They include a letter from the City of Durango; a letter from the attorney general of the State of Colorado; a letter from the Native American Rights Fund; a letter from the Colorado House of Representatives; a letter from the Colorado General Assembly; and a Denver Post article dated July 28, 1996.

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

CITY OF DURANGO,
Durango, CO, July 10, 1996.

HONORABLE MEMBERS OF THE HOUSE OF REPRESENTATIVES: The City Council of the City of Durango, Colorado, urges your support of ongoing funding for the Animas-La Plata Project.

The public water supply needs of this community have been put on hold for over a decade in anticipation that Congressional commitments associated with the project would be honored and funding would be authorized in a timely fashion.

The Animas-La Plata Project remains as the most economical and efficient means of addressing the future water supply needs of this region. Failure by Congress to provide additional funding for the project at this time may bring about its demise, thereby thrusting the responsibility of developing future water resource needs back into the shoulders of the local governments and Indian Tribes in this region, thus eliminating the economies of scale inherent in the federal project.

Accordingly, we ask your positive support in providing continued funding of the Animas-La Plata Project.

Sincerely,

LEE R. GODDARD,
Mayor.

STATE OF COLORADO,
DEPARTMENT OF LAW,
Denver, CO, July 5, 1996.

Hon. DICK ZIMMER
U.S. House of Representatives,
Washington, DC.

DEAR REPRESENTATIVE ZIMMER: I am writing to you to urge your continued support of the Animas-La Plata Project. We must not simply walk away from the solemn commitments made to the Southern Ute and Ute Mountain Ute Tribes in the Colorado Ute Indian Water Rights Final Settlement Agreement and the Colorado Ute Indian Water Rights Settlement Act of 1988. The Animas-La Plata Project should go forward because it settles long-standing Tribal water claims.

It is important to remember the reasons this project is necessary. In 1976 the United States, on behalf of the Southern Ute and Ute Mountain Ute Indian Tribes filed an application in Colorado water court for adjudication of their reserved water rights on numerous tributaries covering virtually all of southwestern Colorado. If these rights were confirmed, numerous vested water rights would become junior to the Tribes' water rights. Cities, industry, farmers, ranchers and numerous other water users feared that the Tribes could take water from existing uses and could frustrate future non-tribal development.

The underlying agreement took years to negotiate and was based on commitments and compromises made by all parties, Native Americans and non-native Americans alike. A look at the general purposes set out in the settlement agreement confirms the very importance of us meeting our obligations. That agreement finally determined all rights and claims of the Tribes for water, settled existing disputes and removed causes of future controversy among the Tribes, State of Colorado, the U.S. concerning the rights to beneficially use water in southwestern Colorado. It secured for the Tribes an opportunity to generate revenue from the use of reserved water rights obtained under the agreement.

Pursuant to the terms of the agreement, if parts of the Animas-La Plata project are not completed by the year 2000, the Tribes have the option to go back to water court and pursue their original claims in the Animas and La Plata river systems. The result could be costly litigation between the U.S., State, and individual water right holders throughout the region. Further uncertainty regarding the practical use and value of many water rights would exist.

Congress has recognized its contractual and moral obligations to the parties of the settlement agreement by continuing to fund the project. Congress further recognized the project's importance by requiring the Bureau of Reclamation to construct the project without further delay in legislation passed last year.

Critics have stated that the settlement agreement can no longer be met. That, I believe, is a surprise to many of those parties to the agreement. To completely scrap the project by no longer funding it will wreak havoc on economies and water administration in the State of Colorado. The Tribes would most likely be forced to reopen their claims in a long and costly court battle. Certainty, with respect to these reserved rights could not be expected for many more years, perhaps decades.

Both the Southern Ute and Ute Mountain Ute Tribes strongly support building Animas-La Plata to implement the Settlement Agreement. In fact, the Tribes have filed a civil action against the Environmental Protection Agency in the U.S. District Court in Denver to compel EPA to fulfill its contractual and statutory duties to the Tribes and refrain from obstructing construction of the project.

The economic viability of the project has been criticized. However, as the Bureau points out in its report, the analysis does not take into account the tangible and intangible benefits of resolving the Tribes' reserved rights claims without lengthy, costly litigation that would pit Indian and non-Indian neighbors against each other.

The project will comply, as required by law, with the Endangered Species Act and all other applicable environmental statutes. The environmental effects of Animas-La Plata are carefully considered and addressed in the April 1996 Final Supplement to the Final Environmental Statement (FSFES). Extensive mitigation measures are proposed for the project.

Some project critics have urged that further studies be done on the Project. Further studies would do nothing more than delay the project beyond the settlement agreement deadline and further escalate costs. Alternatives were considered in the 1980 environmental impact statement, they were considered again during negotiation of the Settlement Agreement, and the Bureau took a fresh and extremely thorough look at them in the FSFES, which took over four years to complete.

The Settlement Agreement requires that Animas-La Plata be built without further delay. The State of Colorado has already spent over $11,000,000 to implement the Settlement Agreement, with an additional $48,000,000 set aside in escrow. The United States should likewise honor its commitment to the Tribes and the settlement. I strongly urge you to oppose any attempt to delete appropriations for the Animas-La Plata Project from the 1997 Energy and Water Development Appropriations Bill.

Sincerely,

GALE A. NORTON,
Attorney General.

NATIVE AMERICAN RIGHTS FUND,
Boulder, CO, July 2, 1996.

U.S. HOUSE OF REPRESENTATIVES,
Washington, DC.

DEAR REPRESENTATIVE: The Native American Rights Fund opposes any effort to delete funding for the Animas-La Plata Project which would affect the implementation of the 1988 Colorado Ute Indian Water Rights Settlement Act.

During the House consideration of the FY 1997 Energy and Water Appropriations bill, it is anticipated that Congressmen Petri and Defazio will offer an amendment to delete any funding the bill contains for this project and settlement.

The Ute Tribes and their non-Indian neighbors negotiated in good faith, rather than pursuing long, costly and divisive litigation. Their goal was to share invaluable water resources and provide the Tribes with water

promised them more than a century ago. Since the settlement became law in 1988, the Tribes and project sponsors have fully cooperated with federal agencies and complied with environmental law.

It is now time for the federal government to live up to its moral and legal obligation to the Tribes. Denying funding and forcing negotiation of a new deal is an extreme step which breaches the United States' trust responsibility.

Please vote against any amendment which would cut off funding for the Animas-La Plata Project and the Colorado Ute Tribes' Settlement.

Sincerely,

JOHN E. ECHOHAWK,
Executive Director.

STATE OF COLORADO,
HOUSE OF REPRESENTATIVES
Denver, CO, July 1, 1996.

Hon. NEIL ABERCROMBIE,
U.S. House of Representatives, Longworth House Office Building, Washington, DC.

DEAR REPRESENTATIVE ABERCROMBIE, When the House considers the FY 97 Energy and Water Appropriations bill, it is my understanding that Congressmen Petri and DeFazio may offer an amendment to delete any funding for the Animas La Plata Project and therefore the related Indian water rights settlement between the Ute Tribes and the State of Colorado.

I, along with Sen. Ben Alexander (R–Montrose), represent the project area, the Tribes and the non-Indian parties to the settlement. We strongly encourage you not to pull the rug out from under this negotiated agreement by withdrawing funds to implement it.

My constituents have negotiated in good faith, and avoided costly litigation which in the end would not provide real water to the Tribes and divide cultures which have worked well together. When the parties signed the settlement agreement, they took the federal government at its word. All other parties have lived up to their end of the bargain, including the State of Colorado which has a $60 million commitment to this project and settlement.

It is time for the United States Government to keep its word and begin construction on at least those project features defined in last year's appropriations bill, which told the Secretary of the Interior to construct ''without delay.''

I respectfully request that you vote against any amendment which would cut off funding for the Animas-La Plata Project and the Colorado Ute Indian Water Rights Settlement.

Sincerely,

JIM DYER,
State Representative.

GENERAL ASSEMBLY;
STATE OF COLORADO
Denver, CO, July 1, 1996.

Hon. DICK ZIMMER,
U.S. House of Representatives, Cannon House Office Building, Washington, DC.

DEAR REPRESENTATIVE ZIMMER, when the House considers the FY '97 Energy and Water Appropriations bill, it is my understanding that Congressmen Petri and DeFazio may offer an amendment to delete any funding for the Animas-La Plata Project and therefore the related Indian water rights settlement between the Ute Tribes and the State of Colorado.

I, along with Rep. Jim Dyer (D-Durango), represent the project area, the Tribes and the non-Indian parties to the settlement. We strongly encourage you not to pull the rug out from under this negotiated agreement by withdrawing funds to implement it.

My constituents have negotiated is good faith, and avoided costly litigation which in the end would not provide real water to the Tribes and divide cultures which have worked well together. When the parties signed the settlement agreement, they took the federal government at its word. All other parties have lived up to their end of the bargain, including the State of Colorado which has a $60 million commitment to this project and settlement.

It is time for the United States Government to keep its word and begin construction on at least those project features defined in last year's appropriations bill, which told the Secretary of the Interior to construct ''without delay.''

I respectfully request that you vote against any amendment which would cut off funding for the Animas-La Plata Project and the Colorado Ute Indian Water Rights Settlement.

Sincerely,

BEN ALEXANDER,
State Senator.

[From the Denver Post, July 28, 1996]

SENATE SHOULD RESTORE A–LP

Environmental groups won a round against Western and Native American interests last week when the U.S. House of Representatives voted 221–200 to delete $10 million in funding for the Animas-La Plata water project in Southwestern Colorado. But prospects are good that the Senate will keep the project alive.

The thinly populated Rocky Mountain states have little clout in the House, where environmental groups waged a concerted assault on the water project. As Colorado Rep. Scott McInnis whose 3rd District would host the project, notes, it's easy for a member of Congress from the East or South to please environmentalists by voting against a water project in Colorado. But the Senate—where the sparsely settled Rocky Mountain states have the same two senators as larger states do—is a much more favorable battleground for the West. And in Ben Nighthorse Campbell, the only Native American now serving in Congress, the project has a powerful champion.

''Look for Ben Campbell to come out swinging,'' a project supporter told a Post editor Thursday, the day after the House vote. We didn't have to look for long—Campbell called minutes later to reaffirm his support for the project.

''The Senate Appropriations Committee has already appropriated $9.5 million for Animas-La Plata,'' Campbell said. ''I think it will stay in on the floor and stay in the bill later after we go to conference with the House.

''A lot of those House members who voted against Animas-La Plata weren't here in 1988 when the Indian Settlement Act passed and the project was authorized,'' Campbell said. ''There have been 270 treaties between the U.S. government and the Indians and they have all been broken, without exception. I would hope this is not another broken promise.''

We share Campbell's hopes, for selfish as well as moral, reasons. As part of the 1988 settlement, the Southern Ute and Ute Mountain Ute tribes agreed to abide by the ''law of the river,'' a complex set of regulations that includes the Colorado River Compact. But if Congress repudiates its own pledge to convert the abstract Indian water rights into ''wet water'' the tribes can actually use to preserve their lifestyle, the Utes can return to court. In the process, they could rip huge holes in the fabric of state water law and of the Colorado River Compact itself.

That is decidedly not what the Utes want. What they want is what they deserve—their water. We trust the Senate will recognize that the Animas-La Plata project is the only practical way to meet a long-standing obligation to a people who have been cheated far too many times.

Mr. CAMPBELL. Mr. President, an amendment to strike funding for the Animas-LaPlata project is an attempt to further delay a project that was first authorized by Congress in 1968 and is the cornerstone to fulfilling the provisions of the Colorado Ute Indian Water Rights Settlement Act, enacted and signed into law by President Bush in 1988.

It seems to be that assumption of many people that ''a feasibility of the project study'' has not been completed, or that ''feasible alternatives that may be available to fulfill the water rights of the Ute tribes'', have not been explored. Frankly, Mr. President, the Senator from Wisconsin is mistaken.

In an effort to further clarify the record, I would like to share with my colleagues a brief chronology of events that show that all possible alternatives have been explored, debated, and even voted on in various public referendums.

In 1968: Congress authorized the Colorado River Basin Project Act.

Congress appropriated funds for advance studies.

In 1974–1977: the Southwestern Water Conservation District and the Bureau of Reclamation sponsored a thorough process of public involvement that compared four major alternatives and dozens of sub-alternatives for each of the four major plans. In total, approximately 100 alternatives were considered.

In 1979: The Definite Plan Report, detailing the new configuration of Ridges Basin and Southern Ute Reservoirs is completed.

Endangered Species Act, nonjeopardy opinion on Animas-La Plata project is issued by the Fish and Wildlife Service.

In 1980: The final environmental statement is completed.

In 1986: The Department of the Interior accepts cost-sharing arrangement that calls for State and local entities to provide 38 percent of the upfront funding.

Enactment of the Colorado Ute Indian Water Rights Settlement Act.

In 1987 and in 1990, voters in La Plata County, CO, and in San Juan County, NM, overwhelmingly endorsed BOR's construction of the ALP project.

October 6, 1991: Ground breaking ceremony is held in Durango.

In 1992, the San Juan River Recovery Implementation Program was executed with the dual goals of the recovery of the endangered fish in the San Juan River and allowing water development to go forward.

And as recently as the last 2 months, again the city of Durango, in a vote of confidence for the project, approved a resolution in support of the ALP project.

Since 1992, the project has been mired down in litigation by project opponents involving a laundry list of environmental related issues.

The fact is that the Ute Indian Tribes own the water rights to the Animas La Plata system by virtue of various treaties with the U.S. Government. These treaty rights have been upheld by the Supreme Court of the United States when disputes have arisen in other States.

The tribes and the water districts chose negotiation over litigation. Rather than engage in expensive and divisive legal battles, the tribes and the citizens of Colorado and New Mexico chose to pursue a negotiated settlement. The Ute Tribes agreed to share their water with all people. The people came together in partnership and cooperation with the Federal Government to reach a mutually beneficial solution: the construction of the Animas La Plata project. Their settlement agreement was executed on December 10, 1986. The Settlement Act was ratified by Congress and signed into law on November 3, 1988.

The Settlement Act also approved a cost-sharing agreement. The water districts and the States of Colorado and New Mexico have put their money where their mouth is—and have already lived up to the terms of these agreements. Consider that:

First, the State of Colorado has committed $30 million to the settlement of the tribes' water rights claims, has expended $6 million to construct a domestic pipeline from the Cortez municipal water treatment plant to the Ute Mountain Ute Indian Reservation at Towaoc, and has contributed $5 million to the tribal development funds;

Second, the U.S. Congress has appropriated and turned over to the Ute mountain Ute and Southern Ute Indian Tribes $49.5 million as part of their tribal development funds, and

Third, water user organizations have signed repayment contracts with Reclamation.

The construction of the ALP project is the only missing piece to the successful implementation of the settlement agreement and the Settlement Act. It is time that the U.S. Government kept its' commitment to the people.

Historically, this country has chosen to ignore its obligations to our Indian people. Members of the Ute Tribes had been living in a state of poverty that can only be described as obscene. Their only source of drinking water was from ditches dug in the ground. I find it most distressing that the same groups and special interests who are now scrambling to block this project also, in other contexts, hold themselves out as the only real defenders of minority rights in this country.

This project would provide adequate water reserves to not only the Ute Nation, but to people in southwestern Colorado, northern New Mexico, and other downstream users who rely on this water system for a variety of crucial needs which range from endangered species protection to safe drinking water in towns and cities—perhaps even filling swimming pools for some of our critics.

The Southern Ute Indians and the Ute Mountain Ute Indian Tribes have rejected any buy out proposals. They simply want decent and reliable water supplies—using their own water—for their people. In exchange, all the people of the area will benefit. The Sierra Club, National Wildlife, and other opponents are apparently willing to spend even more hundreds of millions of tax dollars to buy off the Indians than it would cost to complete the project.

Mr. President, on March 1, of last year Secretary Babbitt testified before the House Appropriations Subcommittee on Energy and Water Development, that the Department of Interior has devoted the resources of his agency to carrying out the will of Congress on the ALP project, and will continue to do so.

He further stated that ''the Benefit/Cost issue has already been settled and decided by the Congress.'' And further that ''it is no longer on the table as far as his [Secretary Babbitt's] experience over 30 years across the West. And that is not an issue that any court is going to take up.

And more recently, the Director of the Colorado Department of Natural Resources earlier this year testified before the House Energy and Water Subcommittee in support of the Animas-LaPlata project.

In conclusion, I would like to include for the record several items that includes a letter from a Mr. Harrick Roth, chairman of the Colorado Forum, that appeared in the Denver Post.

He writes:

> There are no secrets about ALP. There are 25 years of documents produced by the Bureau of Reclamation, the U.S. Fish and Wildlife Service, the Colorado River Salinity Control Project, the EPA, the New Mexico Interstate River Commission, the Colorado Water Conservation Board and the Colorado Water and Power authority—just to name a few.

On the question of meeting the needs of the native Americans, he writes:

> To the Editor: You have done it yet again. Treat Indians as our wards, you say. Give them ''taxpayer'' welfare benefits. Your ''howevers'' continue as you argue that it will be cheaper for taxpayers to take any alternative course. Since paleface Americans, like yourselves and myself, have made it historical practice to break treaties with Native American nations and relegate tribes to ''reservations'' of limited geography, your editorial prescribes ''continue the course!!''.

Just yesterday, July 28, yet another article appeared in the Denver Post in support of the ALP project.

Mr. President, the bottom line is, there has been exhaustive efforts to accommodate all parties from an environmental perspective and an economic perspective. The completion of this project will summarily fulfill the obligations of the Federal Government to the Ute Indian Tribes. For these reasons would ask my colleagues to oppose this amendment that seeks to strike funding for the Animas-LaPlata project.

Mr. President, is the time appropriate now to move to table the Feingold amendment?

The PRESIDING OFFICER. The time is appropriate.

Mr. CAMPBELL. I, therefore, move to table the Feingold amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The motion before the body is the motion to table the Feingold amendment No. 5106. The yeas and nays have been ordered.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. I ask unanimous consent that there be 2 minutes equally divided.

The PRESIDING OFFICER. Without objection, there will be 2 minutes equally divided between the Senators.

Mr. FEINGOLD addressed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin is recognized.

Mr. FEINGOLD. I thank the Senator from New Mexico. I recognize there are strong feelings on this project and deep divisions in the region. I say to the junior Senator from Colorado, we must honor our commitment to this tribe. The question is how to honor the commitment.

This project was first authorized in 1968. As I understand it, it had little or nothing to do at that time with the issue of water for the native American tribe. Three decades later, it has not been built. Realistically, my colleagues, it will never be built. It is not economically or fiscally feasible that we keep spending money on it. There are legitimate Indian needs that should be addressed and have to be addressed. Remember, only one-third of the water concerned here will go to native American tribes; two-thirds goes to others. Yet, there are substantial questions, in the end, under this project, that the tribes in consideration here will be able to obtain the water.

This project is dead. Let us return to the drawing board and scale this down so it can meet our commitment without wasting substantial taxpayer dollars.

I urge the members to support the amendment and oppose the motion to table.

I want to make a few remarks to clarify several points in the committee report dealing with the Animas-La Plata water project. The committee report contains a discussion of the status of efforts by the Bureau of Reclamation to comply with numerous laws applicable to the project. It is my understanding that the committee report simply sets forth the views of the committee and is not intended to waive any provision of law or to declare that the Bureau's efforts at compliance are sufficient to satisfy any law.

I want to make it clear, for the record, that the committee report cannot have the effect of circumventing

the jurisdiction or procedures of any administrative agency with respect to the Animas-La Plata project.

It is important to make this clear because the project has been and is at present the subject of litigation concerning compliance with various environmental and reclamation laws. The committee report cannot have the effect of making any factual findings which would usurp the jurisdiction of the courts or the relevant administrative agencies with respect to whether the Animas-La Plata project is in compliance with applicable environmental, financial, and reclamation laws.

I expect that the Congress will be revisiting the future of this project, regardless of the outcome this year, and it is important in the meantime that there be no misunderstanding as to the applicability of existing laws which constrain further development.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I rise to compliment the distinguished junior Senator from Colorado. I believe that was as elegant a speech as we have ever heard. It did not take him very long, but he made the point.

Actually, the United States of America has committed to two Indian tribes for which this project would proceed. I believe he stated it right. People with different ideas and different justifications enter this case, but I believe that the project has been proven technically sound. It has continued to receive the full support of those who will put it together and finalize it.

I think the Senator has put the final touches on it with his argument that we ought to live up to our commitments to the Indian people.

I might suggest, although all the water does not go to the Indian people, that there are non-Indian people who have been relying on this water and waiting for it, also. They should not be ignored just because some people want to now change midstream.

I hope we support the motion to table and move on to take this to conference with the House.

I yield the floor.

Mr. CRAIG. Mr. President, I rise in strong opposition to the amendment by the Senator from Wisconsin. Despite its superficial appeal, the effects of his amendment would be devastating not only to the Ute Tribes in Colorado, but also for every other tribe and State who are attempting to resolve disputes over water rights through negotiated settlement rather than endless litigation.

The Senator from Wisconsin pretends that his amendment will save money—he is wrong. Indian litigation is the closest this country has come to the situation Dickens described in Bleak House. There are law firms that probably can no longer even remember who the partner was who first brought the litigation, but generations have profited—generations of lawyers both within and without the Government.

The Colorado Ute Settlement Act was a remarkable accomplishment, and it has served as a model for other settlements in Utah and Arizona. It would be unconscionable to overturn that settlement, especially for the specious arguments put forward by the opponents.

Mr. President, even Secretary Babbitt has grudgingly endorsed completion of the Animas-La Plata project because of the importance of fulfilling the Federal obligations under the negotiated settlement. Remember, this is Secretary Babbitt—the Secretary who wants to take down a really big Federal dam, the Secretary who has waged an incessant war against farmers, ranchers, miners, and those who work the land to produce the food, fiber, and material to support this Nation. This is the Secretary who repeatedly has decried what he views as an individualistic concept of private property and who has attacked State jurisdiction over water resources. This is the Secretary who would have used the Reclamation Reform Act as a lever for Federal regulation of farm operations and proposed Federal definitions of what constituted beneficial use to override State water law in his proposed lower Colorado regulations. Even this Secretary, no friend to any farmer, Indian or non-Indian, has supported funding the Animas-LaPlata project.

Mr. President, the funding in this appropriation measure is not some incidental addition from the Congress. This administration requested $10 million for the Animas-LaPlata project for work on the Ridges Basin Dam and Reservoir, and for preconstruction activities, cultural resource mitigation, environmental compliance, and endangered species studies. I hesitate to mention that the Fish and Wildlife Service is proximately responsible for the situation on the San Juan, and at least in this Senator's view, should bear all the costs associated with species recovery and mitigation. This administration—the same one that opposed $5 million to provide potable water to the rural residents at Fort Peck—this administration supports funding this project. That is how important having the Federal Government fulfill its obligations under the Colorado Ute Settlement Act is.

Mr. President, I oppose the amendment by the Senator from Wisconsin and urge my colleagues to support the action taken by the Appropriations Committee.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Colorado to lay on the table the amendment of the Senator from Wisconsin. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Kansas [Mrs. FRAHM] is necessarily absent.

Mr. FORD. I announce that the Senator from Rhode Island [Mr. PELL] is necessarily absent.

I also announce that the Senator from Rhode Island [Mr. PELL] is absent because of a funeral.

I further announce that, if present and voting, the Senator from Rhode Island [Mr. PELL] would vote ''nay.''

The result was announced—yeas 65, nays 33, as follows:

[Rollcall Vote No. 251 Leg.]

YEAS—65

Abraham	Faircloth	Lott
Akaka	Feinstein	Mack
Ashcroft	Frist	McCain
Baucus	Gorton	McConnell
Bennett	Graham	Mikulski
Bingaman	Gramm	Murkowski
Bond	Grams	Nickles
Breaux	Grassley	Pressler
Brown	Gregg	Pryor
Bryan	Hatch	Reid
Burns	Hatfield	Shelby
Campbell	Heflin	Simon
Coats	Helms	Simpson
Cochran	Hutchison	Smith
Conrad	Inhofe	Specter
Coverdell	Inouye	Stevens
Craig	Jeffords	Thomas
D'Amato	Johnston	Thompson
Daschle	Kassebaum	Thurmond
DeWine	Kempthorne	Warner
Domenici	Kennedy	Wellstone
Dorgan	Kyl	

NAYS—33

Biden	Glenn	Moseley-Braun
Boxer	Harkin	Moynihan
Bradley	Hollings	Murray
Bumpers	Kerrey	Nunn
Byrd	Kerry	Robb
Chafee	Kohl	Rockefeller
Cohen	Lautenberg	Roth
Dodd	Leahy	Santorum
Exon	Levin	Sarbanes
Feingold	Lieberman	Snowe
Ford	Lugar	Wyden

NOT VOTING—2

Frahm	Pell

The motion to lay on the table the amendment (No. 5106) was agreed to.

Mr. DOMENICI. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. JOHNSTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DOMENICI. Mr. President, I think the next amendment is the Grams amendment with reference to ARC.

AMENDMENT NO. 5105

The PRESIDING OFFICER. The Chair's record shows the next amendment in order is McCain amendment No. 5105. Does the Senator from New Mexico request the Grams amendment be taken up next?

Mr. DOMENICI. I believe it is appropriate to withdraw that amendment.

The PRESIDING OFFICER. Without objection, the amendment is withdrawn.

The amendment (No. 5105) was withdrawn.

AMENDMENT NO. 5100

The PRESIDING OFFICER. The question is on the Grams amendment. There are 2 minutes equally divided. The Senator from Minnesota is recognized.

Mr. GRAMS. Mr. President, thank you very much. This is a very moderate and very straightforward amendment. All it does is simply adopt the

funding of the Appalachian Regional Commission——

Mr. DOMENICI. May we have order?

The PRESIDING OFFICER. The Senator will suspend. The Senate will be in order.

Mr. DOMENICI. Might I just say to the Senators who are walking out of here, in 2 minutes, we are going to start voting again on this amendment. So it might be best to stay around.

The PRESIDING OFFICER. The Senator from Minnesota is recognized.

Mr. GRAMS. Thank you, Mr. President.

Mr. President, again, as I said, this is a very moderate and straightforward amendment. All it does is simply adopt the funding for the Appalachian Regional Commission at the House-passed level of $10 million less than that approved by the Senate.

It requires that the commission provide a specific plan for future downsizing. Like many Federal programs, the ARC was created back in 1965 as a temporary response—temporary response—to poverty in Appalachia.

Today, over 30 years later and despite the infusion of more than $7 billion of taxpayer money into the region, we are still pouring money into the area under the pretext of fighting poverty. This program is one of 62 Federal economic development programs. The ARC is the only major Government agency targeted toward a specific region of the country.

This program has outlived its original mandate. It is ineffective and it is expensive and simply does not work. American taxpayers can no longer afford such extravagant spending. That is why CBO, the Senate, the House budget committees all recommended elimination of the ARC. Even President Clinton recommended reducing it by $500 million in budget authority and $300 million in outlays over the next 5 years. Although I strongly believe the ARC should be terminated, the Grams-McCain amendment does not zero out funding for the ARC, nor does it reduce it significantly. It simply reduces the level of funding to that approved by the House of $155 million, not the $165 million in the Senate budget. It also provides a specific plan for future downsizing. I urge my colleagues to support this very moderate amendment. Thank you, Mr. President.

The PRESIDING OFFICER. The Chair will note that while we have been observing 2 minutes equally divided, there is not an agreement limiting debate on this amendment to that level. Who seeks recognition?

Mr. JOHNSTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. JOHNSTON. Mr. President, we strongly oppose the Grams-McCain amendment and strongly support the Appalachian Regional Commission at this level. Mr. President, this has been an effective program to fight poverty in Appalachia. Appalachia is still one of the most expensive places to build roads, one of the poorest places on the face of the United States, and one of the most needed functions of Government that I can think of.

It is an ongoing program that brings roads and access to people in the mountains and hollows and poor areas of West Virginia and other States in Appalachia. We strongly oppose the Grams amendment and support Senator DOMENICI's motion to table.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico is recognized.

Mr. DOMENICI. I move to table the amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There appears to be a sufficient second.

The yeas and nays were ordered.

Mr. FORD addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. FORD. Mr. President, I rise today in opposition to the Grams amendment to further reduce spending for the Appalachian Regional Commission. ARC serves parts of 13 States including 39 counties in my State, and I'm disappointed to see that may colleague from Minnesota is still not convinced of the importance of this program.

The people of eastern Kentucky have much to be proud. That region of the country has a strong tradition of producing some of this country's most gifted musicians, writers, and artists. But, unfortunately, they also produce something none of us are particularly proud of—poverty.

Back in 1993, the Washington Post wrote that ''the last time the United States fought a war on poverty here, poverty won.'' That's because the forces at work manufacturing this region's double-digit poverty figures and all the social disintegration that comes with those figures, are deeply imbedded in a region that was subjected to a century of economic exploitation and geographic isolation.

While poverty claimed victory 30 years ago in the first years of President Johnson's admirable battle, those of us with a deep-seated commitment to the Appalachian region knew that the task of undoing a century of destruction would not be quick in coming. ARC was borne of this commitment to see the battle against entrenched poverty through to the end—to the time when poverty would no longer be the norm.

And in fact ARC has had a dramatic effect in improving the lives of Appalachian citizens, including cutting the region's poverty rate in half, reducing the infant mortality rate by two-thirds, doubling the percentage of high school graduates, slowing the regions out migration, and reducing unemployment rates.

With 115 of the region's 399 counties still classified as economically distressed, we certainly cannot say we have won the war. But, we can say that we have weakened poverty's hold on this region. * * * that we have given the proud people of this region a finger hold in the climb back to self-sufficiency and productivity.

My colleagues should be aware that the ARC's fiscal year 1996 appropriation represents a cut of almost 40 percent from the fiscal year 1995 funding level, while the bill we're considering today makes an additional cut of $5 million for fiscal year 1997. We have already had this debate last year, when my colleague also made an attempt to cripple this program and to cripple the Nation's ability to move an entire region of the country from poverty to productivity.

On August 1 of last year, a very similar amendment offered by the Senator from Minnesota was tabled by a vote of 60 to 38. His amendment failed last year for the same reasons it should not prevail today. ARC is doing its job—helping communities put in place the building blocks of social and economic development to create self-sustaining local economies that can become contributors to the Nation's resources rather than drains on the Nation's resources.

It does this by providing the glue money that leverages other investment from the private sector, other Federal programs, or State and local funds. Since 1992, in my State alone ARC has provided over $80 million that in turn leveraged more than $115 million in additional funds. These were for a wide range of projects from water and sewage systems to tourism to adult literacy.

And as my colleagues pointed out last year, the ARC that is accomplishing this mission is lean and efficient. When it comes to administrative and personnel expenses you'd be hard pressed to find an agency as efficient. Total overhead accounts for less than 4 percent of all expenditures with State Governors contributing 50 percent of those administrative costs.

I can assure you, those Governors wouldn't be made that contribution in these tight fiscal times if they didn't believe they were getting their money's worth.

But, ARC work is far from done. As the national highway system began cris-crossing the country tieing State's together and creating jobs in its wake, the mountainous Appalachian region was left behind.

Today, ARC's highway project has had a tremendous impact on the region. A 1987 survey showed that between 1980 and 1986, 560,000 jobs were created in the Appalachian counties with a major highway—4 times that of counties without.

With only 76 percent of the 3,025 mile Appalachian development highway system constructed or under contract, those figures tell all too clearly why it's so important to let ARC complete its work.

The same is true with ARC's involvement with a wide range of other

projects from health care to job training to water treatment to small business assistance. And, even with ARC funding, Appalachia receives 11 percent less in total per capita Federal spending than the national average.

And, I hope my colleagues will remember that this debate takes place just 1 week after this body made huge changes in the welfare program. We cannot ignore the total impact of changes to the welfare system and crippling cuts in ARC to this region of the country.

Mr. President, I hope my colleagues will join me in defeating this amendment and sending a strong signal to the people of Appalachia that we support their tremendous efforts to move their region forward and secure productive and prosperous futures for their children.

Also, the Senator from Minnesota said that this duplicated a lot of other Federal programs. Mr. President, I ask unanimous consent that a statement that shows that it does not duplicate other Federal programs be printed in the RECORD.

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

ARC DOES NOT DUPLICATE OTHER FEDERAL PROGRAMS

Many distressed Appalachian communities lack the resources to meet the match requirement of other federal programs, making them unable to take advantage of programs from EDA, FmHA, HUD, Education or other agencies. Rather than duplicating these other programs, ARC funds essentially make the programs available to communities that otherwise could not take advantage of them. In that sense our funds are supplemental, not duplicative. This increases federal participation in Appalachian areas, which was a part of the original purpose of ARC. [The administration of these ARC grants then goes through the basic agency whose program we are supplementing.]

ARC funds are more flexible than programs from other federal agencies, allowing states and communities to tailor the projects to their individual needs. An ARC project, for example, could include elements of an EDA project, a FmHA project, or a HUD project, while it would not have been fully eligible for funding under any single program at another federal agency.

ARC projects originate from the local level and are determined by each state's governor. Unlike most other federal programs, this lets the governors decide which projects will receive federal funding.

Up until ISTEA in 1991, the ARC highway program was not on the regular federal highway system. ISTEA added all but roughly 240 miles of ARC highways to the National Highway System. Separate highway funding is important for several reasons. First, for those miles not covered by ISTEA the ARC funding is the only federal source. Second, ARC funding allows the highways to be constructed sooner than they might be if they were funded solely through ISTEA. This is in keeping with the commitment that the nation made to this region almost 30 years ago to break down the isolation that had plagued the region and ink it to national and international commerce. Third, ARC sees highways as elements of an economic development strategy, rather than just a transportation strategy.

Even with ARC's special assistance to the region, Appalachia receives 11% less in total per capita federal spending (including grants, contracts, and transfer payments) than the national average.

WHY SPECIAL ASSISTANCE TO APPALACHIA?

ARC was designed to address the special problems of an entire region that had suffered from over a hundred years of neglect, a region marked by profound problems of persistent and widespread economic distress in a concentrated geographic area that set it apart from the economic mainstream of the nation.

The economic problems of Appalachia are long-term, widespread and fundamental. They are not, for example, the result of short-term cyclical changes in the economy (to which programs like EDA are designed to respond). Rather, the region's economic troubles extend back for at least four generations. Few other areas of the country have economic problems that are so deeply ingrained. In addition, ARC's problems reach broadly across state lines, affecting the economies of the 13 states. This is not a case of sporadic distress that affect single counties. Instead, it is the result of region-wide historic patterns of underdevelopment, isolation, exploitation and migration. Only a couple of other areas of the country have such profound economic problems that sweep across state lines the way Appalachia does.

The economic challenges faced by communities in Appalachia ultimately dampen the growth of the American economy. They create a drain on the national economy, through lowered productivity and reduced output, diminished economic growth and investment, increased government support through transfer payments, and a lowered standard of living. Half of the counties in the ARC region receive federal transfer payments in excess of the national average on a per capita basis. Until we help these people and communities move into the economic mainstream, they will continue to be a drain on the national resources, diminishing our national wealth. It is, therefore, in the interest of California, or Wisconsin or Florida to help Appalachian communities become economically strong and contributing their fair share to the national wealth.

Even with ARC's special assistance, Appalachia receives 11% less in per capita federal spending than the national average. Total per capita federal spending (including grants, contracts, and transfer payments) in Appalachia is $4407, while the national average is $4,917. Rather than giving Appalachia something ''extra,'' ARC just helps the region come closer to getting its fair share of federal resources.

From its creation ARC has worked to develop regional solutions to these economic problems that reach across state lines. Much of the Commission's success flows from this regional approach. No other federal program is deliberately designed to address problems on a multistate basis.

GENERAL ACCOMPLISHMENTS

ARC's diverse programs have produced tangible results across the region:

Water and Sewer Systems. ARC funding brought the first sewer lines and clean drinking water to 700,000 residents of Appalachian counties designated as ''distressed'' due to high rates of poverty and unemployment, and low per capita income. This often corrected severe public health problems. About 2,000 new water and/or sewer systems have provided the infrastructure needed for job creation. As a result of these projects, thousands of jobs have been created or retained.

Access to Health Care. A network of more than 400 primary health care clinics and hospitals has been completed with ARC funding and now serves some 4 million Appalachians a year. More than 5,000 new physicians have opened practices in Appalachia just since 1980. Infant mortality has dropped from 26.5 infant deaths per 1,000 live births in 1960 to 8.3 in 1994.

Child Care Centers. ARC has supported child development in the Region by helping build child care centers that offer low-income families a full range of educational, health and social services. These services have assisted more than 220,000 pre-school-age children and allowed mothers to earn income needed to keep their families above the poverty line.

Educational Advancement. ARC has helped construct and/or equip more than 700 vocational and technical education facilities serving more than 500,000 students a year. In 1965, only 32% of Appalachians over age 25 had finished high school. Today, that figure has risen to 68.4% Among young adults age 18–24, 77% of Appalachians have completed 12 or more years of school, compared with the national average of 76%.

Job Skills Training. In the past 10 years, about 60,000 workers who lack a high school diploma or GED have been retrained through basic skills training in the workplace. The skills of more than 30,000 other workers have been upgraded to compete for high-tech jobs or to provide specific skills required by local employers.

Affordable Housing. Housing shortages have been alleviated by the rehabilitation and construction of more than 14,000 housing units, especially in areas hampered by the lack of construction sites and construction loans. ARC has pioneered innovative approaches to housing development finance to make home ownership more affordable.

Leveraged Investments. A sample of 556 ARC community development projects that were funded between 1983 and 1996 showed that those grants had leveraged over $7.3 billion in private sector investments in the region.

Small Business Assistance. ARC grants to revolving loan funds in ten stated totaled $18.7 million, thereby assisting 822 small businesses—the source of some 8,000 new jobs in Appalachia. In the past, small businesses could not start and grow due to the lack of capital and conservative lending practices in small towns and rural areas, sources of most new jobs in Appalachia. The ARC loan program has leveraged $328.9 million of small business investment in the region—a ratio of almost 20 to 1.

Local Leadership Development. ARC has actively supported the Local Development District (LDD) concept, which was in its infancy in 1965. These 69 multi-county local planning and development agencies foster cooperation in decision-making and leadership development among hundreds of locally-elected officials and private citizens who serve on their boards. LDDs have strengthened the ability of local governments to provide efficient, modern services to their constituents.

SOCIOECONOMIC ACCOMPLISHMENTS

ARC's investments in the region have yielded impressive measurable improvement in the lives of the people of Appalachia and in the economic condition of the region.

The poverty rate in has been cut in half, falling from 31.1% in 1960 to 15.2% in 1990.

The infant mortality rate has been cut by two-thirds, going from 26.5 (deaths per thousand births) in 1960 to 8.3 in 1994.

Per capita income has improved dramatically. In 1960, the region's income was 78.1% of the national average. Today it is 83.5% of the national average.

The percentage of adults with a high school degree has doubled from 32.8% in 1960 to 68.4% in 1990.

Among adults age 18–24, the high school graduation rate now equals the national average (78%).

Overall employment rates now approximate the national average.

New outmigration has slowed, from 12.2% during the 1950s to 2.2% in the 1980s.

Population in growing. Between 1990 and 1995, the region's population increased 4.6% with all parts of Appalachia showing growth over the five-year period.

Thirty-eight counties now have economies which are performing at or near national norms of income, employment, and poverty.

THE TASK IS NOT YET DONE

Despite the significant progress the region has made, many portions of Appalachia still do not participate fully in the strength of the American economy. In a word, Appalachia has become a region of contrasts in the past 30 years. The region has made enormous strides, but because it began so far behind the rest of the nation, there is need for continued special assistance that will make these hundreds of communities and millions of people contributors to, rather than drains on, the national resources.

115 of ARC's 399 countries are classified as severely distressed. This means that they suffer from unemployment rates that are at least 150% of the national average, poverty rates that are at least 150% of the national average, and per capita incomes that are no more than ⅔ of the national average. These are areas of persistent and widespread economic distress.

The region of contrasts means that while northern and southern Appalachia have done relatively well, central Appalachia is still severely distressed. In all three sections, the non-metro counties lag the nation on almost all socioeconomic measures.

The poverty rate for Appalachia is 16% higher than the national average.

Appalachia's per capita income is only 83% ($17,406) of the U.S. average ($20,800).

Over 20% of the youth in northern and southern rural areas are growing up in poverty, and an even higher 34% of youth in central Appalachia live in poverty.

Across the region as a whole, rural Appalachia is poorer than the rest of rural America, and metropolitan Appalachia is poorer than the rest of metropolitan America.

The problems are particularly acute in Central Appalachia, where the poverty rate is 27% rural per capita income is still only two-thirds of the national average, and unemployment rates are almost double the national average.

The Appalachian Regional Development Highway System, the federal government's commitment to ending the region's isolation, is only 76% complete, with major segments not yet under contract for construction.

Mr. FORD. Mr. President, I remind my colleagues that over 60 Members voted for tabling last time.

Mr. BYRD. Mr. President, I rise in opposition to the amendment offered by the Senator from Minnesota that would reduce the Committee recommendation for the Appalachian Regional Commission from $165 million to $155.3 million. The House and Senate have voted on three different occasions against efforts to terminate or reduce funding for ARC, and I urge the Senate to reject again this attempt to penalize Appalachia.

The Committee recommendation already reduces ARC by $5 million below the amount requested in the President's Budget. The recommendation of the Senate Appropriations Committee is $17 million below the amount approved by the Senate last year for ARC. And when compared to prior year funding levels, ARC has already borne more than its fair share of deficit reduction in this appropriations bill. When compared to the fiscal year 1995 funding level for ARC, the amount recommended in the bill by the Appropriations Committee is down $117 million, or 41 percent. Let me repeat—in two years, the funding for this agency has decreased by $117 million.

Mr. President, the Committee's recommendation is a responsible one. Funding for ARC is already reduced below the President's budget. The Energy and Water appropriations bill is within its 602(b) allocation. Because of the efforts of Senator DOMENICI, the Energy and Water Subcommittee has a higher allocation than the House. As a result, additional funds are allocated throughout the bill to produce a more balanced, reasoned approach to funding for the programs in the bill. The Senate version of the Energy and Water bill provides more funding than the House bill for several programs—not just ARC. For example, funding for flood control along the Mississippi River and its tributaries is above the House level, as is funding for the Bureau of Reclamation construction (which benefits just the 17 States west of the Mississippi River). The Senate bill provides considerably more funding than the House bill for Atomic Energy Defense Activities. However, it is only ARC that is targeted for further reduction.

I cannot help but wonder if this type of amendment would be proposed if the name of this agency were the Rural Development Commission. Is it appropriate for the Senate to punish the people who are served by an agency's programs by virtue of where they live? I do not believe this is the tradition of the Senate. The Senate supports those who are in need—whether it is through quick response with additional funds when disaster occurs, or through assistance to improve the opportunities available to those who are struggling.

Mr. President, there are any number of programs in the Government that benefit a limited geographic area of the country. But in making decisions about Federal programs, the Appropriations Committee does not target spending reductions for programs based solely on geographic criteria. There are any number of programs that continue to receive funding even though they might not benefit all areas equally. In the Interior bill, for example, we appropriated over $113 million in fiscal year 1996 for the Payments in Lieu of Taxes program, even though 67 percent of the funds went to just eight States. Similarly, the Oregon and California Grant Lands account, which benefits just one State, continues to receive funding. So it is extremely unfair to suggest that the ARC funding should be reduced simply because of the reference to Appalachia in the title.

The mission of ARC is straightforward—to provide an effective regional development program that will create economic opportunity in distressed areas so that communities are better positioned to contribute to the national economy. Traditionally, there has been a great disparity in poverty and income levels between Appalachia and other parts of the country. And while great strides have been made, there is still much to be done. The programs of the ARC have contributed to improvements in the ability of the region to address the disparity in poverty and income levels between Appalachia and other parts of the country. Despite the progress in recent years, there is still much to be done. The income level in Appalachia is only 84 percent of the national average. The poverty rate in Appalachia is 16 percent above the national average. When it comes to United States expenditures on a per capita basis, even with the ARC funding, Appalachia receives 11 percent less in per capita Federal spending than the national average.

Mr. President, the programs of ARC help communities to develop their resources so that they will contribute to the Nation's economy. Many of the communities which benefit from the resources provided to ARC are without some of the most basic of services, including water and sewer infrastructure, access to health care, and decent roadways. Unless a transportation network is put in place that provides access to and from the rest of the Nation, Appalachia will remain isolated, and thus removed from competing for jobs with other population centers.

Some 30 years after establishment of the Appalachian Regional Corridor Highways, this network of 3,025 miles of highway is only about 76 percent complete. At the funding levels recommended in this bill, it will be well into the next century before this highway system is completed. The amendment offered by the Senator from Minnesota will delay further this access to safe and modern highways. The people of Appalachia deserve better from the United States Senate.

Sadly, there are still children in Appalachia who lack decent transportation routes to school. There are still pregnant women, elderly citizens and others who lack adequate, modern road access to area hospitals. There are thousands upon thousands of people who find it difficult to obtain sustainable, well-paying jobs because of poor road access to major employment centers. The ARC's limited resources play an important role in improving these circumstances. We should not reduce our efforts when so much work remains to be done.

ARC's programs do not duplicate those of other Federal agencies. The highway funds in ARC are the only source of Federal funding for Appalachian miles not covered in the Intermodal Surface Transportation Act

[ISTEA]. Because of the poverty in Appalachia, many communities are unable to qualify for other Federal programs because they can't meet the matching requirements for local cost-sharing. How are communities ever to improve their circumstances if they are never given a helping hand? Because of the situations that exist in some of the small, isolated communities of Appalachia, flexibility is critical to successful problem solving. Thus, an existing program in one Federal agency may not suit the need—but the flexible nature of the ARC program does help solve problems.

The ARC was not set up as a temporary agency. It was set up to deal with long-term, wide-spread fundamental problems in Appalachia. The problems with which ARC deals are not short term in nature. Rather, ARC deals with region wide problems of under development, isolation, and economic disparity. In no other region of the country do such problems stretch across such a vast area.

Mr. President, we hear a great deal of talk in this body about empowering local communities and States to make decisions about what works best for them. The structure of the Appalachian Regional Commission does just that. ARC operates from the bottom up—projects originate at the local level, and the Commission is comprised of the Governors of the thirteen States in the region, along with a Federal co-chairman. At present, there are eight Republican and five Democratic Governors who serve on the Commission and who have endorsed its continuation. No policy can be set or any money spent unless the Federal representative and a majority of the Governors reach agreement.

Mr. President, I urge Senators to reject this amendment. This agency is already funded $117 million below the fiscal year 1995 level, $17 million below the fiscal year 1996 level approved by the Senate, and $5 million below the fiscal year 1997 budget request level. Cuts are already being imposed on the ARC. I urge the Senate to stand by its earlier votes in support of the Appalachian Regional Commission.

Mr. ROCKEFELLER. Mr. President, I urge all of my colleagues to vote against the Grams amendment. It would be a mistake to cut funding for the Appalachian Regional Commission, a small and valuable agency that has earned strong, bipartisan support here in Congress and in the 13 States it serves.

Some Senators may think this is an amendment that only affects those of us representing Appalachian States. I want to explain why everyone in this body has reason to reject this amendment and its call for another cut in the ARC.

The people of every State have a stake in the economic strength of the rest of the country. When floods ravage the Midwest or the Gulf States; when a major defense installation or space center is located in a State like Texas or Alabama; when payments are made to farmers for crop support or losses; when California, Colorado, or some other Western State needs water to survive; when Federal research labs are placed in New Mexico or Massachusetts—when any of this support and assistance is extended, it is the country's way of investing in each region and in the future of Americans everywhere.

The Appalachian Regional Commission is the Federal Government's principal means of helping one distinct part of the country overcome some very real barriers. Its mission is to act as a Federal partner with the States of the Appalachian region—to overcome barriers from geography to infrastucture to poverty, and to lay the foundation for economic growth and prosperity.

The ARC has not exploded in size or scope or funding. Quite the opposite. In fact, as the dividends of its work have come through, Congress has been able to reduce its budget in the recent years.

This agency is a success story, and it is in the national interest to keep its work going to get the job done.

In many parts of the region, major progress has been achieved. But the ARC's job is not quite finished, and the agency needs adequate funding to continue its partnership with West Virginia and the Appalachian region to finish the foundation we need for more growth, more jobs, and more hope for our people.

In the bill before us, ARC's budget is cut by $5 million from last year's level. And more importantly, Senators should know that last year's level was set after ARC was cut by close to 40 percent from its fiscal year 1995 funding. The ARC and the States served by this small agency are doing their share of sacrifice for deficit reduction. The appropriation in this year's bill is fully consistent with the budget resolution, which assumed the continuation of the ARC. Its funding should not be further reduced.

The Grams amendment would cause real damage to the agency and to the parts of the Appalachian region where ARC's resources and expertise are still needed.

As a former Governor, and now as a U.S. Senator from West Virginia, I know vividly the value of the ARC and how it improves the lives of many hard-working citizens. Whether the funding is used for new water and sewer systems, physician recruitment, adult literacy programs, or the Appalachian corridor highways, it has made the difference in West Virginia, Kentucky, and the other Appalachian States.

The highways are the most visible and best known investments made by the ARC for the people of Appalachia. As of today, over two-thirds of the ARC highway system have been completed. But if the ARC is further cut, the job of bringing the Appalachian States up to the level of non-Appalachian States will be further delayed or never achieved at all.

At this very moment, some of these highways are called highways halfway to nowhere, because they are just that—half built, and only halfway to their destination.

The job has to be completed, so these highways become highways the whole way to somewhere. And that somewhere is called jobs and prosperity that will benefit the rest of the country, too. Appalachia simply wants to be connected to our national grid of highways. Parts of the region weren't lucky enough to come out as flat land, so the job takes longer and costs more. But it is essential in giving the people and families in this part of the United States of America a shot—a chance to be rewarded for a work ethic and commitment with real economic opportunity and a decent quality of life.

I won't speak for my colleagues from other Appalachian States, but West Virginia was not exactly the winner in the original Interstate Highway System. And Senators here represent many States that were. As a result, areas of my State have suffered, economically and in human terms. Without roads, people are shut off from jobs. That's obvious. But without roads, people also can't get decent health care. Dropping out of school is easier sometimes than taking a 2-hour bus ride because the roads aren't there.

Long before it was fashionable, ARC used a from-the-bottom-up approach to addressing local needs rather than a top-down, one-size-fits-all mandate of the type that has become all too familiar to citizens dealing with Federal agencies. It works, too.

I urge everyone in this body to keep a promise made to a region that has been short-shrifted. Each region is unique. Solutions have to differ, depending on our circumstances. When it comes to Appalachia, a small agency called the Appalachian Regional Commission should finish its work. Cutting its budget further will only create more problems and more costs that should be avoided. I urge my colleagues to vote against the Grams amendment, and again, I remind everyone that it is in the entire Nation's interest to invest in each region and each State in ways that deal with their needs and their potential.

Mr. WARNER. Mr. President, I rise in opposition to an amendment offered by Senator GRAMS of Minnesota which would drastically reduce funding for the Appalachian Regional Commission.

At a time when we are correctly terminating or scaling back outdated Federal programs, I believe the Appalachian Regional Commission is the type of Federal initiative we should be encouraging. It is important to recognize that the ARC uses its limited Federal dollars to leverage additional State and local funding. This successful partnership enables communities in Virginia to have tailored programs which help

them respond to a variety of grassroots needs.

In the Commonwealth of Virginia, 21 counties rely heavily on the assistance they receive from the Appalachian Regional Commission. Income levels for this region of Virginia further indicate that on average my constituents who reside in this region have incomes which are $6,000 below the average per capita income for the rest of the Nation.

In 1960, when the ARC was created, the poverty rate in Virginia's Appalachian region was 24.4 percent. Since that time the ARC has helped slash the region's poverty rate in half. However, we are still a long way from achieving the U.S. average poverty level of 13.1 and also the regional poverty level of other ARC-member States of 15.2 percent.

In addition to the progress made on the region's staggering poverty rate, the ARC has made important inroads curbing several other problems inherent in Appalachia. Since the inception of the ARC, the infant mortality rate in the region has fallen by two thirds. The high school graduation rate has doubled, and unemployment rates have significantly declined.

Even with these substantial improvements, however, the region still lags behind the rest of the Nation in all of these categories. Of the 339 counties within the purview of the ARC, 115 are classified as economically distressed. Meanwhile, the ARC continues with a 40-percent reduction from fiscal year 1995, and the pending Senate appropriations bill contains a further reduction of $5 billion from fiscal year 1996.

With these statistics in mind, I would like to offer some specific points one should keep in mind regarding the effectiveness of ARC programs, its relationship with the Commonwealth of Virginia, and the direct impact that this relationship has on the private sector.

In recent years, a significant portion of ARC funds have been dedicated to local economic development efforts. Were it not for this assistance, the LENOWISCO Planning District and Wise County would not have been able to complete construction of the water and sewage lines to provide utility services to the Wise County Industrial Park at Blackwood. These lines were financed by a $500,000 grant from the ARC and a $600,000 grant from the U.S. Economic Development Administration. The construction of these utilities to serve a new industrial park has attracted a major wood products manufacturing facility which has created 175 new jobs for the community.

The Fifth Planning District serving the Allegheny Highlands of Virginia is a prominent example of leveraging other State and local funds and stimulating economic development with partial funding from the ARC. For fiscal year 1995 with $350,000 from the ARC, the Allegheny Regional Commerce Center in Clifton Forge, VA was established. This new industrial center already has a commitment from 2 industries bringing new employment opportunities for over 220 persons.

The ARC funds for this project has generated an additional $500,000 in State funds, $450,000 from the Virginia Department of Transportation, $145,000 from Allegheny County, and $168,173 from the Allegheny Highlands Economic Development Authority. As a result of a limited Federal commitment, there is almost a 4 to 1 ratio of non-Federal dollars compared to Federal funds.

In many cases these funds have been the sole source of funding for local planning efforts for appropriate community development. For example, such funds have been used to prepare and update comprehensive plans which are required by Virginia State law to be updated every 5 years in revise zoning, subdivision, and other land use ordinances. In addition funds are used to prepare labor force studies or marketing plans to guide industrial development sites.

Mr. President, the mission of the Appalachian Regional Commission is as relevant today as it was when the program was created. This rural region of our Nation remains beset with many geographic obstacles that have kept it isolated from industrial expansion. It is a region that has been attempting to diversify its economy from its dependency on one industry—coal mining—to other stable employment opportunities. It is a program that provides essential services and stimulates the contributions of State and local funds.

I urge the Senate to reject the Grams amendment and supply the necessary funding for this crucial and important program.

The PRESIDING OFFICER. The question now occurs on agreeing to the motion to lay on the table the Grams amendment. The yeas and nays have been ordered. Those in favor of tabling the Grams amendment will vote aye. Those opposed to tabling the GRAMS amendment will vote no. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. NICKLES. I announce that the Senator from Kansas [Mrs. FRAHM] is necessarily absent.

The PRESIDING OFFICER (Mr. ASHCROFT). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 69, nays 30, as follows:

[Rollcall Vote No. 252 Leg.]

YEAS—69

Akaka	Cochran	Ford
Baucus	Conrad	Frist
Bennett	Coverdell	Glenn
Biden	D'Amato	Gorton
Bingaman	Daschle	Graham
Boxer	DeWine	Harkin
Bradley	Dodd	Hatch
Breaux	Domenici	Hatfield
Bryan	Dorgan	Heflin
Bumpers	Exon	Helms
Burns	Faircloth	Hollings
Byrd	Feinstein	Inouye
Jeffords	McConnell	Rockefeller
Johnston	Mikulski	Santorum
Kassebaum	Moseley-Braun	Sarbanes
Kennedy	Moynihan	Shelby
Kerrey	Murkowski	Simon
Kerry	Murray	Specter
Lautenberg	Nunn	Stevens
Leahy	Pell	Thurmond
Levin	Pryor	Warner
Lieberman	Reid	Wellstone
Lott	Robb	Wyden

NAYS—30

Abraham	Gramm	Mack
Ashcroft	Grams	McCain
Bond	Grassley	Nickles
Brown	Gregg	Pressler
Campbell	Hutchison	Roth
Chafee	Inhofe	Simpson
Coats	Kempthorne	Smith
Cohen	Kohl	Snowe
Craig	Kyl	Thomas
Feingold	Lugar	Thompson

NOT VOTING—1

Frahm

The motion to lay on the table the amendment (No. 5100) was agreed to.

Mr. JOHNSTON. Mr. President, I move to reconsider the vote.

Mr. DOMENICI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DOMENICI. I understand Senator WELLSTONE has a colloquy in lieu of an amendment.

Mr. WELLSTONE. I ask unanimous consent to withdraw my amendment.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

BIOMASS RURAL ELECTRICITY PROJECTS

Mr. WELLSTONE. Mr. President, let me be quite brief because I know we are going to a final vote. One of the more exciting developments for rural America are biomass rural electricity projects. I was in Granite Falls, MN, yesterday, and the high school auditorium was filled with citizens excited about a project with the alfalfa producers co-op. This is biomass rural electricity. This is a value-added, farmer-owned co-op. This is rural economic development. This is environmentally sound. This is new products for agriculture. It is renewable energy.

The question I ask the managers of the bill is, will these projects be eligible for consideration for funding in fiscal 1997 out of the funds provided? My concern, as the Senator from Minnesota, is that, as a matter of fact, these kinds of projects, based upon this renewable energy policy, based upon this concern about the environment and rural economic development, will be eligible for funding.

So my question, one more time, is whether or not these projects will be eligible for consideration of funding in fiscal 1997 out of the funds provided.

Mr. JOHNSTON. Mr. President, the answer is, yes, these projects for biomass electric will be eligible, and the Department should give full consideration to these projects along with those mentioned in the committee report. These appear to be promising technologies, and we will urge the department to fully consider them.

Mr. DOMENICI. Mr. President, I have listened to the colloquy and reviewed it before. I agree.

Mr. WELLSTONE. Mr. President, I thank both the Senator from Louisiana and the Senator from New Mexico.

AMENDMENT NO. 5122

Mr. DOMENICI. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from New Mexico [Mr. DOMENICI] proposes an amendment numbered 5122.

Mr. DOMENICI. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

On page 22, line 17, following ''$92,629,000'' insert the following: '': *Provided further,* That in addition to any other payments which it is required to make under subchapter III of chapter 83 or chapter 84 of title 5, United States Code, the Department of Energy shall remit to the Office of Personnel Management for deposit in the Treasury of the United States to the credit of the Civil Service Retirement and Disability Fund an amount equal to 15 percent of the final basic pay of each employee who is covered under subchapter III of chapter 83 or chapter 84 of title 5 to whom a voluntary separation incentive has bee paid under this paragraph''.

Mr. DOMENICI. Mr. President, yesterday we accepted an amendment to the bill to provide the Secretary of Energy with buyout authority in fiscal year 1997. If buyouts are offered, the Civil Service Retirement and Disability Fund would be required to make previously unanticipated payments which results in a scoring issue.

The technical amendment I offer will resolve the scoring issue by directing the Secretary of Energy to make appropriate payments to the Civil Service Retirement and Disability Fund on behalf of employees who accept buyouts.

Mr. President, I ask that the amendment be agreed to.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 5122) was agreed to.

Mr. DOMENICI. Mr. President, I move to reconsider the vote.

Mr. JOHNSTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

THE ADVANCED COMPUTATIONAL TECHNOLOGY INITIATIVE

Mr. STEVENS. I would like to enter into a colloquy with the bill manager, Senator DOMENICI, and Senator BENNETT. The Advanced Computational Technology Initiative [ACTI] is an ongoing DOE advanced R&D Program involving joint research efforts by the national labs and the oil and gas industry. The program pairs the unique supercomputing capabilities of DOE's nine multi-purpose National Laboratories with the domestic oil and natural gas industry. These research capabilities that would not otherwise be readily available will enable American industry to solve some of the grand challenge problems that exist in exploration and production geophysics, engineering, and geoscience.

Mr. BENNETT. This program is a collaborative effort that will produce significant energy security benefits. For example, the program is advancing technology to reduce the costs of acquiring seismic data and enhance 3D simulation using advanced visualization and virtual reality in reservoir engineering. These advances will bring down development costs in marginal areas thereby increasing net production and reducing the surface impacts of oil drilling. The application of advanced technologies will enhance oil recovery from current producing areas in Prudhoe Bay, the Gulf of Mexico, and the Appalachian Basin.

Mr. STEVENS. The Federal funding supports the national lab and university components, no Federal funds go to the industry. The projects have been selected on a competitive basis to ensure only relevant and widely beneficial research is supported by DOE. Industry contributes over 50 percent on a cost-sharing basis.

Mr. BENNETT. In order to adequately fund this program, $9,000,000 under Engineering and Geosciences in Basic Energy Sciences, and $5,000,000 in computational technology research in other energy research programs must be committed to the Department's Advanced Computational Technology Initiative.

Mr. DOMENICI. I agree with my colleagues as to the value of the ACTI Program and support Department funding of the program at this level.

SOLAR, WIND, AND RENEWABLES ACCOUNT

Mr. JEFFORDS. Mr. President, I would like to engage in a brief colloquy with the chairman of the Energy and Water Appropriations Subcommittee regarding the amendment that was adopted yesterday restoring funding to the solar, wind, and renewables account. Is it the chairman's understanding that $23.072 million has been transferred into the solar and renewables account in this appropriations measure, leaving a total of $269.713 million for the solar and renewable energy account.

Mr. DOMENICI. That is my understanding.

Mr. JEFFORDS. Is it also your understanding that of this $23.072 million in the amendment, $16.5 million shall be for an increase in wind energy systems of which $2 million shall be for the Kotzebue, Alaska project. In addition, the amendment would provide increases of $2.0 million for international solar, $1.5 million for solar thermal; $1.0 million for resource assessment; $1.072 million for the renewable energy production incentive program; and $1 million for the utility climate challenge program.

Mr. DOMENICI. That is correct, Senator.

Mr. JEFFORDS. I would like to thank the managers of this bill for their assistance with this important amendment.

INEL

Mr. KEMPTHORNE. Mr. President, the senior Senator from Idaho, Mr. CRAIG, and I, should like to engage the chairman of the Senate Energy and Water Appropriations Subcommittee, Mr. DOMENICI, in a colloquy for purposes of clarification regarding the status of two INEL projects, funding for which is not specific in the report.

Mr. DOMENICI. Mr. President, under the Defense Environmental Restoration and Waste Management account for the Department of Energy; more specifically within the nuclear material and facility stabilization section, it is stated that the ''Committee is aware that the Idaho National Engineering Laboratory has been designated the lead lab under DOE's National Spent Nuclear Fuel Program and that the Department has acknowledged that increased funding will be needed to carry out the additional responsibilities.'' In this regard, Mr. President, the Committee—Energy and Water Appropriations—recommendation is consistent with the Senate authorizing committee action for this activity.

Mr. KEMPTHORNE. As the distinguished chairman of the Senate Energy and Water Appropriations Subcommittee, the Senator from New Mexico, knows, the Senate Defense authorization bill for fiscal year 1997, H.R. 3230, also authorizes funding under the nuclear material and facility stabilization provision for spent fuel vulnerabilities associated with activities at INEL's power burst facility. Was it the intent of the committee recommendation, to be consistent with the Senate authorizing committee action for the national spent fuel activity, to also include funding for this provision?

Mr. DOMENICI. While the two INEL projects under the National Spent Nuclear Fuel Program were not actually described in report language, it was the intent of the committee to include both activities for funding under this section—nuclear material and facility stabilization.

Mr. CRAIG. Will the Senator from New Mexico indulge me in turning to another section of the energy and water appropriations bill, S. 1959; specifically the Waste Management Program under the Defense environmental restoration and waste management section for further clarification?

Mr. DOMENICI. Certainly.

Mr. CRAIG. The fiscal year 1997 Defense authorization bill also provided authorization for a surety program at the INEL to improve waste minimization efforts in the new stockpile management modernization program. Was it the intent of the committee to also provide funding for this activity within the waste management section, which

received an additional $138.4 million from the President's budget request?

Mr. DOMENICI. The DOE Waste Management Program seeks to protect the public and workers by seeking to minimize, treat, store, and dispose of radioactive, hazardous, mixed and sanitary waste generated by past and ongoing operations at DOE facilities, which is consistent with the surety program.

INDIAN ENERGY RESOURCES PROGRAM

Mr. STEVENS. Included in this appropriations bill is funding for the Indian Energy Resources Grant program, which was originally authorized in the Energy Policy Act of 1992. As the Senator from New Mexico knows well, in its short history, this program has been put to good use in providing up to a 50-percent match for funding for sorely needed energy projects in Native communities.

Mr. DOMENICI. I share the sentiments of the Senator from Alaska regarding the importance of the grants provided under the Indian Energy Resources Program.

Mr. STEVENS. I appreciate that the Senator's work on this year's bill included funding for three important renewable energy projects in Alaska—two are clean, small hydroelectric projects to partially or fully replace 100 percent diesel-generated electricity in rural parts of Alaska, which are predominantly Native. Funding for the third project will be for the construction of a transmission intertie to bring energy from a recently completed hydroelectric project to several communities.

For rural Alaska, electric power is still expensive and limited in supply. Electricity is produced in rural Native villages by burning diesel fuel that is brought in to the villages during the summer months and stored in fuel tanks. For the past two decades the State of Alaska has been able to provide subsidies to rural Alaskans through its Power Cost Equalization Program. Because the oil fields of Alaska's North Slope are now in decline, however, and because development of the known oil field on the Coastal Plain of the Arctic National Wildlife Refuge is still restricted, the State's continuation of this program is uncertain.

Rural Alaskans, therefore could be facing an increase in their energy bills on the order of 30 cents to more than $1 per kilowatt hour. The national average for electric power is just 7 to 8 cents per kilowatt hour. For this reason, development of renewable energy and energy transmission projects in rural Alaska is all the more important.

My only disappointment regarding this program is that, with the limited funding we are able to provide this year, several worthy projects, such as the hydroelectric projects proposed for Old Harbor and Admiralty Island, Alaska, were not funded. Additionally, the authorization for the Indian Energy Resources Program is only through fiscal year 1997.

It is my hope that the Department of Energy will give what support it can to Native projects such as the Old Harbor and Admiralty Island hydroelectric projects this year. I also fully support the reauthorization of this program.

Mr. DOMENICI. I agree with the Senator that we would have hoped to provide funding to all the proposed worthy projects. As this was simply not possible, however, the absence of earmarks should not prohibit the Department of Energy from providing technical and financial assistance where possible. This program has been important to Indian projects in my State as well, and I look forward to working with the Senator from Alaska in its continuation.

TITLE XVI WATER RECYCLING PROGRAM

Mr. BENNETT. I thank my friend from New Mexico, the distinguished chairman of the Energy and Water Development Subcommittee for his leadership on this bill. I particularly wish to thank the Senator for his personal commitment to the Bureau of Reclamation's title XVI water recycling program. As the Senator knows, I am a strong advocate of this program. In arid Western States like Utah, water reuse is the next logical step, both economically and environmentally toward guaranteeing more dependable water supplies for our cities and towns.

As the Senator knows, I have sponsored legislation to expand the existing title XVI program which I am hopeful will be enacted this year. This legislation includes projects in my own State of Utah as well as projects in New Mexico, Texas, Nevada, and California. In anticipation of the enactment of that legislation, I have asked the distinguished chairman to seek the inclusion of certain language in the conference report accompanying this bill at the proper time. This language that would instruct the Bureau of Reclamation to make available to other water recycling projects authorized under title XVI any funds appropriated by this bill of title XVI projects that the Bureau may be unable to obligate for whatever reasons when it is possible.

Would the distinguished chairman agree to seek the inclusion of this language in the conference report?

Mr. DOMENICI. The Senator from Utah is correct.

Mr. BENNETT. I thank the Senator for his courtesy in this regard.

ADVANCED RESERVOIR MANAGEMENT PROGRAM

Mr. DOMENICI. Mr. President, I rise today to point out to my colleagues the importance of an initiative within the Department of Energy [DOE] that represents the proper partnership role for the Department and our private sector. I speak of the advanced reservoir management [ARM] project that has been funded under the Defense Activities, Technology Transfer account within the Energy and Water Appropriations bill. This program takes advantage of the unique computer capabilities of our national lab stockpile stewardship initiative and the common problems facing the independent oil and gas producers of the country. These problems involve complex legacy databases and require advanced computational challenges that are simply beyond the grasp of most independent oil and gas producers to solve on their own. This program represents a new model for industry-lab partnerships and serves the Nation by enhancing the stockpile stewardship mission while contributing to essential new knowledge and capability in our energy sector. In doing so, this partnership contributes to both our national defense and to the Nation's energy security. I suggest that this program should continue to be an important part of the DOE mission.

FORMERLY UTILIZED SITES REMEDIAL ACTION PROGRAM

Mr. D'AMATO. Mr. President, I wonder if the chairman will yield for a moment.

Mr. DOMENICI. I am happy to yield to my friend from New York.

Mr. D'AMATO. Thank you, Mr. President. Tonawanda, NY, is home to seven sites that are on the Department of Energy's Formerly Utilized Sites Remedial Action Program [FUSRAP] list. Four of these sites—Ashland 1, Ashland 2, Seaway Industrial Park and Linde Air Products—are collectively known as the Tonawanda Site. The Tonawanda site is a legacy of the Manhattan Project and contains approximately 350,000 cubic yards of radioactive waste. For 18 years, the Department of Energy has engaged in study after study and has spent over $20 million to determine how to permanently dispose of this waste. There is no support for Tonawanda's 80,000 residents for siting this waste within the town. For 50 years they have had to endure this waste and the blight it has cast upon their town. They are sick of it and they want it gone.

Mr. MOYNIHAN. If I may add, the citizens of Tonawanda, through their elected officials, have engaged our offices and have asked Senator D'AMATO and me to request that the Congress give direction to the Department of Energy in order to start the process towards removal and disposal of this waste. We both agreed that we would do what we could to relieve the town's burden. Now, Mr. President, this is a daunting task requiring many tens of millions of dollars. We do not believe for a moment that it will be easy. However, we are here today to ask the chairman's assistance with the next step.

Mr. D'AMATO. Mr. President, the Department of Energy has indicated that moving this waste will be expensive, however, we are not aware of any fixed price of what it would cost to remove, transport and dispose of this waste. We do not know if a business, operating in the open market, can present a reasonable, competitive bid. We do not know because no bids have been put forth by the Department that would determine the private sector's

ability to manage this waste. Hence, the waste remains where it is, the studies continue and the citizens of Tonawanda grow frustrated.

Mr. MOYNIHAN. The Department should at least explore the options available to them. The private sector may be able to present a bid that would speed-up the clean-up of the Tonawanda site in a cost-effective manner. Maybe it cannot. The problem is the Department of Energy is reluctant to even find out.

Mr. DOMENICI. I appreciate hearing the concerns of my friends from New York. I can understand their wanting to see this site cleaned-up as quickly and efficiently as possible. I can also understand the concerns of the citizens of Tonawanda—they will only be pleased with the total removal of this 350,000 cubic yards of radioactive waste. Finally, I can understand the funding constraints of the FUSRAP program within the Department of Energy that can make decisions like these very difficult. Nevertheless, I believe that the Senators from the State of New York have a right to find out what analyses the Department of Energy possesses that indicate that removal, transportation and off-site storage appear unacceptable to the Department.

Mr. D'AMATO. I thank my friend from New Mexico for his indulgence.

Mr. MOYNIHAN. I thank the chairman, as well.

RENEWABLE AND CONSERVATION RESOURCES

Mr. HATFIELD. Mr. President, if I might have the attention of my friend from New Mexico, the distinguished manager of the pending legislation, I would like to clarify a clerical error which appeared in the Senate committee report on this legislation. The item I seek to clarify involves the role of the Bonneville Power Administration in advancing the use of renewable energy resources and promoting energy conservation in the Pacific Northwest.

The following language was included in the subcommittee report to accompany S. 1959:

Renewable Resource Development.—The Committee understands that the BPA, in keeping with the goals of the 1980 Northwest Power Planning and Conservation Act, is involved in four renewable resource demonstration projects in the region. The Committee supports BPA's efforts to confirm and expand the supply of renewable resources in the Northwest, and expects BPA to complete the two wind and two geothermal projects it has underway. Completing these projects will lay the foundation for building a renewable marketplace in the region, and will benefit both the environment and the local economy. The Committee understands that BPA may spend up to $40,000,000 each year on these projects once they are all in service, and encourages BPA to move forward expeditiously on their completion. The Committee directs BPA to prepare a report on the progress of this program by March 1, 1997.

Subsequently, during the markup of S. 1959 in the full Appropriations Committee, language on renewable energy was agreed to which was intended to replace, not be added to, the above subcommittee report language. The language is as follows:

Renewable and conservation resources.—The Committee continues to strongly support conservation and renewable energy resources. These resources remain the foundation for a sustainable energy future in the Pacific Northwest as the region approaches the new century. The Committee strongly encourages the Bonneville Power Administration, the Northwest Power Planning Council, and other participants in the regional review being conducted by the Governors of the four Northwest States, to explore all innovative measures to assure achievement of pace-setting energy conservation and renewable resource targets in the coming decade. The Committee urges that new mechanisms be defined to assure adequate funding to sustain and substantially expand energy conservation and renewable resources as the electric power industry transitions to a more deregulated energy marketplace. While the Committee recognizes the BPA's need to remain competitive and assure its payments to the U.S. Treasury, BPA should make every effort to fulfill the commitments it has made to renewable energy and energy conservation resources.

To summarize, the paragraph entitled, ''Renewable and conservation resources,'' adopted in the full committee markup, was meant to replace the paragraph entitled, ''Renewable Resource Development'', which was adopted in the subcommittee markup.

My purpose in speaking on this issue is to clarify this point with the chairman of the subcommittee, Mr. Domenici. Does the Senator from New Mexico's understanding of committee's intent comport with what I just described.

Mr. DOMENICI. Mr. President, the Senator from Oregon has accurately described the intent of the committee. I thank my friend for clarifying the committee's intent with regard to this clerical error.

RENEWABLE ENERGY PROGRAMS

Mr. ROTH. Mr. President, I am pleased that the Senate Energy and Water Appropriations bill includes my amendment that increase funding for renewable energy programs. My amendment restore $23 million to solar and wind energy programs, bringing funding to these programs up to last year's levels.

Mr. President, renewable energy technologies represent our best hopes for reducing air pollution, creating jobs and decreasing our reliance on imported oil and finite supplies of fossil fuels. These programs promise to supply economically competitive and commercially viable energy, while also assisting our Nation in reducing greenhouse gases and oil imports. I believe that the Nation should be looking toward alternative forms and sources of energy, not taking a step backward by cutting funding for these programs.

My own State of Delaware has a long tradition in solar energy. In 1972, the University of Delaware established one of the first photovoltaic laboratories in the Nation. The University has been instrumental in developing solar photovoltaic energy, the same type of energy that powers solar watches and calculators.

Delaware has a major solar energy manufacturer, Astro Power, which is now the fastest growing manufacturer of photovoltaic cells in the world. In collaboration with the University of Delaware and Astro Power, Delaware's major utility—Delmarva Power & Light—has installed an innovative solar energy system that has successfully demonstrated the use of solar power to satisfy peak electrical demand.

Through this collaboration, my State has demonstrated that solar energy technology can be an economically competitive and commercially viable energy alternative for the utility industry.

It is vital that we continue to manufacture these solar cell products with the high performance, high quality, and low costs required to successfully compete worldwide. Investment in Department of Energy solar and renewable energy programs has put us on the threshold of explosive growth. Continuation of the present renewable energy programs is required to achieve the goal of a healthy photovoltaic industry in the United States.

While the solar energy industries might have evolved in some form on their own, the Federal investment has accelerated the transition from the laboratory bench to commercial markets in a way that has already accrued valuable economic benefits to the Nation.

The solar energy industries—like Astro Power—have already created thousands of jobs and helped to reduce our trade deficit through exports of solar energy systems overseas, mostly to developing nations, where 2 billion people are still without access to electricity.

International markets for solar energy systems are virtually exploding, due to several key market trends. Most notably, solar energy is already one of the lowest cost options available to developing countries that cannot afford to build large, expensive centralized power generation facilities with elaborate distribution systems.

The governments of Japan, Germany, and Australia are investing heavily in aggressive technology and market development in partnership with their own solar energy industries. Until recently, Japan and Germany held the lead in world market share for photovoltaics; the United States has only recently recaptured international market dominance. Cutting funding for commercializing these technologies would have a chilling effect on the U.S. industry's ability to compete on an international scale in these billion-dollar markets of today and tomorrow. The employment potential of renewables represents a minimum of 15,000 new jobs this decade with nearly 120,000 the next decade.

It is imperative that this Senate support solar and renewable energy technologies and be a partner to an energy future that addresses our economic needs in an environmentally acceptable manner. My State has done and will continue to do its part. I hope my colleagues in the Senate will look to the future and do their part in securing a safe and reliable energy future by supporting this amendment.

Mr. MCCAIN. Mr. President, before final passage of this bill I wanted to make a few points.

First, I want to thank the managers of the bill. Their job is a thankless task and they deserve great credit for moving this important measure with such speed through the Senate.

But, Mr. President, this bill is fundamentally a flawed measure. As is the custom in the Energy and Water Appropriations bill, we put into statute all of the Army Corps of Engineer projects. This practice is very disconcerting.

After carefully examining where such funds are to be spent, one comes to the conclusion that the needs of the States represented by members of the Appropriations Committee have more weight than the needs of other States. It is for this reason that we should end this practice of earmarking Army Corps funds.

Instead, Mr. President, we should develop a system where the States and the Corps work together, develop a priority list based on national needs, and then that list is funded from a lump sum. Such a practice would eliminate the earmaking of this money as it now occurs and would—I believe—prove much more fair.

I am also concerned that some of the projects in the bill are fully funded by the Federal Government while others are not.

I note that on page 5 of the bill a project in Shreveport, LA is funded ''at full Federal expense.'' I wonder why this is being done.

On page 7, we do the same thing with a project in West Virginia.

Mr. President, it is these kinds of earmarks that I believe we should all be concerned.

Additionally, on page 11 of the bill, section 108, we are funding a wharf at the Charleston Riverfront Park in West Virginia. Why aren't there similar sections for other parks?

Mr. President, it is this constant earmarking that leaves me no choice but to vote against this bill. I would hope that in the future we could develop a better system for spending this money.

Mr. WYDEN. Mr. President, I rise in support of S. 1959, the fiscal year 1997 energy and water development appropriations bill.

I am particularly pleased that the Senate is restoring funding for renewable energy programs. A portion of the restored funds will go to support a Federal interagency board, The Committee on Renewable Energy Commerce and Trade [CORECT]. This program came out of legislation authored by Senator HATFIELD and myself in the 97th Congress which President Reagan signed. The premise of the legislation was simple: build effectiveness of Government export assistance programs by having Federal agencies work together, team together. CORECT has worked well. Not only has United States industry identified nearly $2 billion of potential in Latin America alone, but global sales for United States renewable energy equipment and services have more than doubled over the last few years.

Mr. President, I also want to thank the chairman and ranking member for including funding for a particular project—the restoration of wetlands on the Williamson River in Oregon.

This project is one of the results of an environmental initiative by my colleague, Senator HATFIELD, over the past several years.

When endangered fish concerns and other environmental problems started coming to light on the Upper Klamath River in the southern part of our state, it was Senator HATFIELD who provided funding and direction to all the Federal agencies involved to work together on solutions, instead of standing around blaming each other for the problems. And, it was Senator HATFIELD who got them to bring the local stakeholders together to work in league with the agencies in considering those problems and trying to agree on solutions—not in the courts, but sitting down face to face with each other.

The people at that table—including the farmers who use water from the Bureau of Reclamation's Klamath project, the Klamath Tribe, hydro generators, other commercial interests, Oregon Trout, and the Nature Conservancy—probably won't ever achieve perfect harmony. They each have their own priorities. But working together, they have been able to agree on positive steps to take to solve some of the environmental problems in the Upper Klamath Basin—and the Tulana Farms wetlands restoration project at the mouth of the Williamson River is one of those.

The Fish and Wildlife Service identified this restoration as a key element in restoring two endangered fish species on the river, and the Nature Conservancy worked with CH2MHill to design the project in such a way that it adds flexibility to the use of the hydro and irrigation projects on the river, rather than constraining it.

They also designed the project to keep a parcel of the Tulana Farms property in agricultural production, because of its role as an important source of seed potatoes for neighboring farmers.

The Federal Government has a responsibility to address the sorts of problems people are facing on the Upper Klamath. But I am proud to say that the Klamath Basin Working Group working with the Klamath Ecosystem Restoration Office did not simply pass the responsibility for solving these problems—or the bill—to the Federal Government.

They have taken on a substantial part of that responsibility. The restoration work and management of the project will be done by the Nature Conservancy. PacifiCorp and the New Earth Co., both of which have operations on the Upper Klamath system, are contributing $4 million of private funding to the project.

Complaining about a problem is a whole lot easier than solving it, especially when a solution affects lots of different interests, and lots of different people. I want to congratulate the people who have worked together to make this project possible, and urge my colleagues to support the work they have taken on.

TVA COMPETING WITH PRIVATE SECTOR ON ENGINEERING WORK

Mr. COCHRAN. Mr. President, Congress has for many years provided a specific appropriation to fund the Environmental Research Center in Muscle Shoal, AL, until last year, when Congress directed TVA to begin looking for ways to finance the Center's operations with funds other than appropriations.

The Chairman of TVA's Board, Craven Crowell, acknowledged this past March in testimony before our subcommittee that TVA had prepared a plan to continue operating the Environmental Research Center using outside funding sources. It has recently come to my attention that one of the ways TVA plans to continue the Center's operation is to compete for work with the private sector.

Under the latest effort, TVA has produced and distributed materials intended to capitalize on their in-house expertise and resources to perform private sector engineering work. These services include: constructed wetland for wastewater treatment; removal of underground storage tanks; site assessment; environmental restoration; groundwater monitoring, and hazardous waste management. In Mississippi alone, there are over 78 private firms, many of them small businesses, who already provide these services.

TVA's marketing of these activities to the private sector has not only created a competitive challenge because of TVA's reputation and resources, but their Government status has created a greater financial and marketing disadvantage to hundreds of private, small business engineering firms across the seven State Tennessee Valley region who are capable and have an excellent track record in performing these kinds of activities.

I have serious concerns whenever the Federal Government or quasi-governmental agencies attempt to unfairly compete with the private sector. I raise this issue today as we consider the energy and water appropriations bill because our friends in the other body have proposed to eliminate funding for the Environmental Research Center. The effect of their provision will be for TVA to accelerate its efforts to compete for private sector work.

I encourage the Energy and Water Development Subcommittee to look into this issue to ensure that TVA is not unfairly competing with private sector engineering consulting firms.

Mr. DOMENICI. Mr. President, I would like to take a moment to discuss the budget impact of S. 1959, the Energy and Water Development Appropriations Act, 1997.

This bill as reported provides $20.3 billion in budget authority and $13.1 billion in new outlays to fund the civil programs of the Army Corps of Engineers, the Bureau of Reclamation, certain independent agencies, and most of the activities of the Department of Energy. When outlays from prior year budget authority and other actions are taken into account, this bill provides a total of $19.9 billion in outlays.

The subcommittee met its budget authority allocation for defense and nondefense. The bill falls below its defense discretionary outlay allocation by $305 million and its nondefense discretionary outlay allocation by $13 million.

Mr. President, I ask unanimous consent that a table displaying the Budget Committee scoring of this bill be printed in the RECORD at this point.

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

ENERGY AND WATER SUBCOMMITTEE SPENDING TOTALS—SENATE-REPORTED BILL

[Fiscal year 1997, in millions of dollars]

	Budget authority	Outlays
Defense discretionary:		
Outlays from prior-year BA and other actions completed	.....	2,863
S. 1959, as reported to the Senate	11,600	8,065
Scorekeeping adjustment	.....	.....
Subtotal defense discretionary	11,600	10,928
Nondefense discretionary:		
Outlays from prior-year BA and other actions completed	.....	3,970
S. 1959, as reported to the Senate	8,708	4,986
Scorekeeping adjustment	.....	.....
Subtotal nondefense discretionary	8,708	8,956
Mandatory:		
Outlays from prior-year BA and other actions completed	.....	.....
S. 1959, as reported to the Senate	.....	.....
Adjustment to conform mandatory programs with Budget	.....	.....
Resolutoin assumptions	.....	.....
Subtotal mandatory	.....	.....
Adjusted bill total	20,308	19,884
Senate Subcommittee 602(b) allocation:		
Defense discretionary	11,600	11,233
Nondefense discretionary	8,708	8,969
Violent crime reduction trust fund	.....	.....
Mandatory	.....	.....
Total allocation	20,308	20,202
Adjusted bill total compared to Senate Subcommittee 602(b) allocation:		
Defense discretionary	.....	−305
Nondefense discretionary	.....	−13
Vlolent crime reduction trust fund	NA	NA
Mandatory	.....	.....
Total allocation	.....	−318

Note: Details may not add to totals due to rounding. Totals adjusted for consistency with current scorekeeping conventions.

Mr. DOMENICI. Mr. President, I think we are prepared to go to third reading.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. Under the previous order, the clerk will report H.R. 3816.

The legislative clerk read as follows:

A bill (H.R. 3816) making appropriations for energy and water development for the fiscal year ending September 30, 1997, and for other purposes.

The Senate proceeded to consider the bill.

The PRESIDING OFFICER. Under the previous order, all after the enacting clause is stricken and S. 1959, as amended, will be inserted in lieu thereof, and the bill is considered read the third time.

The bill was considered read the third time.

The PRESIDING OFFICER. The question occurs on passage of H.R. 3816, as amended.

Mr. DOMENICI. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second.

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is, Shall the bill pass?

The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Kansas [Mr. FRAHM], is necessarily absent.

The result was announced—yeas 93, nays 6, as follows:

[Rollcall Vote No. 253 Leg.]

YEAS—93

Abraham	Feinstein	Lugar
Akaka	Ford	Mack
Ashcroft	Frist	McConnell
Baucus	Glenn	Mikulski
Bennett	Gorton	Moseley-Braun
Biden	Graham	Moynihan
Bingaman	Gramm	Murkowski
Bond	Grams	Murray
Boxer	Grassley	Nickles
Bradley	Gregg	Nunn
Breaux	Harkin	Pell
Bryan	Hatch	Pressler
Bumpers	Hatfield	Pryor
Burns	Heflin	Reid
Byrd	Helms	Robb
Campbell	Hollings	Rockefeller
Chafee	Hutchison	Santorum
Coats	Inhofe	Sarbanes
Cochran	Inouye	Shelby
Cohen	Jeffords	Simon
Conrad	Johnston	Simpson
Coverdell	Kassebaum	Smith
Craig	Kempthorne	Snowe
D'Amato	Kennedy	Specter
Daschle	Kerrey	Stevens
DeWine	Kohl	Thomas
Dodd	Lautenberg	Thompson
Domenici	Leahy	Thurmond
Dorgan	Levin	Warner
Exon	Lieberman	Wellstone
Faircloth	Lott	Wyden

NAYS—6

Brown	Kerry	McCain
Feingold	Kyl	Roth

NOT VOTING—1

Frahm

The bill (H.R. 3816), as amended, was passed, as follows:

Resolved, That the bill from the House of Representatives (H.R. 3816) entitled ''An Act making appropriations for energy and water development for the fiscal year ending September 30, 1997, and for other purposes'', do pass with the following amendment:

Strike out all after the enacting clause and insert:

That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 1997, for energy and water development, and for other purposes, namely:

TITLE I

DEPARTMENT OF DEFENSE—CIVIL

DEPARTMENT OF THE ARMY

CORPS OF ENGINEERS—CIVIL

The following appropriations shall be expended under the direction of the Secretary of the Army and the supervision of the Chief of Engineers for authorized civil functions of the Department of the Army pertaining to rivers and harbors, flood control, beach erosion, and related purposes.

GENERAL INVESTIGATIONS

For expenses necessary for the collection and study of basic information pertaining to river and harbor, flood control, shore protection, and related projects, restudy of authorized projects, miscellaneous investigations, and, when authorized by laws, surveys and detailed studies and plans and specifications of projects prior to construction, $154,557,000, to remain available until expended, of which funds are provided for the following projects in the amounts specified:

Coastal Studies Navigation Improvements, Alaska, $500,000;

Red River Navigation, Southwest, Arkansas, $600,000;

Tahoe Basin Study, Nevada and California, $200,000;

Walker River Basin Restoration Study, Nevada and California, $300,000;

Bolinas Lagoon restoration study, Marin County, California, $500,000;

Barnegat Inlet to Little Egg Harbor Inlet, New Jersey, $300,000;

South Shore of Staten Island, New York, $300,000; and

Rhode Island South Coast, Habitat Restoration and Storm Damage Reduction, Rhode Island, $300,000.

CONSTRUCTION, GENERAL

For the prosecution of river and harbor, flood control, shore protection, and related projects authorized by laws; and detailed studies, and plans and specifications, of projects (including those for development with participation or under consideration for participation by States, local governments, or private groups) authorized or made eligible for selection by law (but such studies shall not constitute a commitment of the Government to construction), $1,049,306,000, to remain available until expended, of which such sums as are necessary pursuant to Public Law 99–662 shall be derived from the Inland Waterways Trust Fund, for one-half of the costs of construction and rehabilitation of inland waterways projects, including rehabilitation costs for the Lock and Dam 25, Mississippi River, Illinois and Missouri, Lock and Dam 14, Mississippi River, Iowa, and Lock and Dam 24, Mississippi River, Illinois and Missouri, projects, and of which funds are provided for the following projects in the amounts specified:

Larsen Bay Harbor, Alaska, $2,000,000;

Ouzinkie Harbor, Alaska, $2,000,000;

Valdez Harbor, Alaska, Intertidal Water Retention, $1,000,000;

Red River Emergency Bank Protection, Arkansas, $6,000,000;

Indianapolis Central Waterfront, Indiana, $2,000,000;

Harlan (Levisa and Tug Forks of the Big Sandy River and Upper Cumberland River), Kentucky, $10,000,000;

Williamsburg (Levisa and Tug Forks of the Big Sandy River and Upper Cumberland River), Kentucky, $4,700,000;

Middlesboro (Levisa and Tug Forks of the Big Sandy River and Upper Cumberland River), Kentucky, $4,000,000;

Pike County (Levisa and Tug Forks of the Big Sandy River and Upper Cumberland River), Kentucky, $3,000,000;

Ouachita River Levees, Louisiana, $2,600,000;

Lake Pontchartrain and Vicinity, Louisiana, $18,525,000;

Lake Pontchartrain (Jefferson Parish) Stormwater Discharge, Louisiana, $3,500,000;

Red River Emergency Bank Protection, Louisiana, $4,400,000;

Mill Creek, Ohio, $500,000;

Seelconk River, Rhode Island Bridge removal, $650,000;

Red River Chloride Control, Texas, $4,500,000;

Wallisville Lake, Texas, $5,000,000;

Richmond Filtration Plant, Virginia, $3,500,000;

Virginia Beach, Virginia, Hurricane Protection, $8,000,000;

Hatfield Bottom (Levisa and Tug Forks of the Big Sandy River and Upper Cumberland River), West Virginia, $1,600,000;

Lower Mingo (Kermit) (Levisa and Tug Forks of the Big Sandy River and Upper Cumberland River), $4,200,000;

Lower Mingo, West Virginia, Tributaries Supplement, $105,000; and

Upper Mingo County (Levisa and Tug Forks of the Big Sandy River and Upper Cumberland River), West Virginia, $4,000,000: Provided, That of the funds provided for the Red River Waterway, Mississippi River to Shreveport, Louisiana, project, $3,000,000 is provided, to remain available until expended, for design and construction of a regional visitor center in the vicinity of Shreveport, Louisiana at full Federal expense: Provided further, That the Secretary of the Army, acting through the Chief of Engineers, is authorized and directed to initiate construction on the following projects in the amounts specified:

Kake Harbor, Alaska, $4,000,000;

Helena and Vicinity, Arkansas, $150,000;

San Lorenzo, California, $200,000;

Panama City Beaches, Florida, $400,000;

Chicago Shoreline, Illinois, $1,300,000;

Pond Creek, Jefferson City, Kentucky, $3,000,000;

Boston Harbor, Massachusetts, $500,000;

Poplar Island, Maryland, $5,000,000;

Natchez Bluff, Mississippi, $5,000,000;

Wood River, Grand Isle, Nebraska, $1,000,000;

Duck Creek, Cincinnati, Ohio, $466,000;

Saw Mill River, Pittsburgh, Pennsylvania, $500,000;

Upper Jordan River, Utah, $1,100,000;

San Juan Harbor, Puerto Rico, $800,000; and

Allendale Dam, Rhode Island, $195,000: Provided further, That no fully allocated funding policy shall apply to construction of the projects listed above, and the Secretary of the Army is directed to undertake these projects using continuing contracts where sufficient funds to complete the projects are not available from funds provided herein or in prior years.

FLOOD CONTROL, MISSISSIPPI RIVER AND TRIBUTARIES, ARKANSAS, ILLINOIS, KENTUCKY, LOUISIANA, MISSISSIPPI, MISSOURI, AND TENNESSEE

For expenses necessary for prosecuting work of flood control, and rescue work, repair, restoration, or maintenance of flood control projects threatened or destroyed by flood, as authorized by law (33 U.S.C. 702a, 702g–1), $312,513,000, to remain available until expended: Provided, That the President of the Mississippi River Commission is directed henceforth to use the variable cost recovery rate set forth in OMB Circular A–126 for use of the Commission aircraft authorized by the Flood Control Act of 1946, Public Law 526.

OPERATION AND MAINTENANCE, GENERAL

For expenses necessary for the preservation, operation, maintenance, and care of existing river and harbor, flood control, and related works, including such sums as may be necessary for the maintenance of harbor channels provided by a State, municipality or other public agency, outside of harbor lines, and serving essential needs of general commerce and navigation; surveys and charting of northern and northwestern lakes and connecting waters; clearing and straightening channels; and removal of obstructions to navigation, $1,688,358,000, to remain available until expended, of which such sums as become available in the Harbor Maintenance Trust Fund, pursuant to Public Law 99–662, may be derived from that fund, and of which such sums as become available from the special account established by the Land and Water Conservation Act of 1965, as amended (16 U.S.C. 460l), may be derived from that fund for construction, operation, and maintenance of outdoor recreation facilities and of which $500,000 shall be made available for the maintenance of Compton Creek Channel, Los Angeles County drainage area, California: Provided, That the Secretary of the Army is directed to design and implement at full Federal expense an early flood warning system for the Greenbrier and Cheat River Basins, West Virginia within eighteen months from the date of enactment of this Act: Provided further, That the Secretary of the Army is directed during fiscal year 1997 to maintain a minimum conservation pool level of 475.5 at Wister Lake in Oklahoma: Provided further, That no funds, whether appropriated, contributed, or otherwise provided, shall be available to the United States Army Corps of Engineers for the purpose of acquiring land in Jasper County, South Carolina, in connection with the Savannah Harbor navigation project: Provided further, That the Secretary of the Army is directed to use $600,000 of funding provided herein to perform maintenance dredging of the Cocheco River navigation project, New Hampshire: Provided further, That $750,000 is for the Buford-Trenton Irrigation District, section 33, erosion control project in North Dakota.

REGULATORY PROGRAM

For expenses necessary for administration of laws pertaining to regulation of navigable waters and wetlands, $101,000,000, to remain available until expended.

FLOOD CONTROL AND COASTAL EMERGENCIES

For expenses necessary for emergency flood control, hurricane, and shore protection activities, as authorized by section 5 of the Flood Control Act approved August 18, 1941, as amended, $10,000,000, to remain available until expended.

GENERAL EXPENSES

For expenses necessary for general administration and related functions in the Office of the Chief of Engineers and offices of the Division Engineers; activities of the Coastal Engineering Research Board, the Humphreys Engineer Center Support Activity, the Engineering Strategic Studies Center, and the Water Resources Support Center, and for costs of implementing the Secretary of the Army's plan to reduce the number of division offices as directed in title I, Public Law 104–46, $153,000,000, to remain available until expended: Provided, That no part of any other appropriation provided in title I of this Act shall be available to fund the activities of the Office of the Chief of Engineers or the executive direction and management activities of the Division Offices: Provided further, That the Secretary of the Army may not obligate any funds available to the Department of the Army for the closure of the Pacific Ocean Division Office of the Army Corps of Engineers.

ADMINISTRATIVE PROVISIONS

Appropriations in this title shall be available for official reception and representation expenses (not to exceed $5,000); and during the current fiscal year the revolving fund, Corps of Engineers, shall be available for purchase (not to exceed 100 for replacement only) and hire of passenger motor vehicles.

GENERAL PROVISIONS

SEC. 101. The flood control project for Arkansas City, Kansas authorized by section 401(a) of the Water Resources Development Act of 1986 (Public Law 99–662, 100 Stat. 4116) is modified to authorize the Secretary of the Army to construct the project at a total cost of $38,500,000, with an estimated first Federal cost of $19,250,000 and an estimated first non-Federal cost of $19,250,000.

SEC. 102. Funds previously provided under the Fiscal Year 1993 Energy and Water Development Act, Public Law 102–377, for the Elk Creek Dam, Oregon project, are hereby made available to plan and implement long term management measures at Elk Creek Dam to maintain the project in an uncompleted state and to take necessary steps to provide passive fish passage through the project.

SEC. 103. The flood control project for Moorefield, West Virginia, authorized by section 101(a)(25) of the Water Resources Development Act of 1990 (Public Law 101–640, 104 Stat. 4610) is modified to authorize the Secretary of the Army to construct the project at a total cost of $26,200,000, with an estimated first Federal cost of $20,300,000 and an estimated first non-Federal cost of $5,900,000.

SEC. 104. The project for navigation, Grays Landing Lock and Dam, Monongahela River, Pennsylvania (Lock and Dam 7 Replacement), authorized by section 301(a) of the Water Resources Development Act of 1986 (Public Law 99–662, 100 Stat. 4110) is modified to authorize the Secretary of the Army to construct the project at a total cost of $181,000,000, with an estimated first Federal cost of $181,000,000.

SEC. 105. From the date of enactment of this Act, flood control measures implemented under Section 202(a) of Public Law 96–367 shall prevent future losses that would occur from a flood equal in magnitude to the April 1977 level by providing protection from the April 1977 level or the 100-year frequency event, whichever is greater.

SEC. 106. Notwithstanding any other provision of law, the Secretary of the Army, acting through the Chief of Engineers, is authorized to reprogram, obligate and expend such additional sums as are necessary to continue construction and cover anticipated contract earnings of any water resources project that received an appropriation or allowance for construction in or through an appropriations Act or resolution of the then-current fiscal year or the two fiscal years immediately prior to that fiscal year, in order to prevent the termination of a contract or the delay of scheduled work.

SEC. 107. (a) In fiscal year 1997, the Secretary of the Army shall advertise for competitive bid at least 7,500,000 cubic yards of the hooper dredge volume accomplished with government owned dredges in fiscal year 1996.

(b) Notwithstanding the provisions of this section, the Secretary is authorized to use the dredge fleet of the Corps of Engineers to undertake projects when industry does not perform as required by the contract specifications or when the bids are more than 25 percent in excess of what the Secretary determines to be a fair and reasonable estimated cost of a well equipped contractor doing the work or to respond to emergency requirements.

SEC. 108. The Corps of Engineers is hereby directed to complete the Charleston Riverfront (Haddad) Park Project, West Virginia, as described in the design memorandum approved November, 1992, on a 50–50 cost-share basis with the City. The Corps of Engineers shall pay one-half of all costs for settling contractor claims on the completed project and for completing the wharf. The Federal portion of these costs shall be obtained by reprogramming available Operations & Maintenance funds. The project cost limitation in the Project Cooperation Agreement shall be increased to reflect the actual costs of the completed project.

TITLE II

DEPARTMENT OF THE INTERIOR

CENTRAL UTAH PROJECT

CENTRAL UTAH PROJECT COMPLETION ACCOUNT

For the purpose of carrying out provisions of the Central Utah Project Completion Act, Public Law 102–575 (106 Stat. 4605), and for feasibility studies of alternatives to the Uintah and Upalco Units, $42,527,000, to remain available until expended, of which $16,700,000 shall be deposited into the Utah Reclamation Mitigation and Conservation Account: Provided, That of the amounts deposited into the Account, $5,000,000 shall be considered the Federal contribution authorized by paragraph 402(b)(2) of the Act and $11,700,000 shall be available to the Utah Reclamation Mitigation and Conservation Commission to carry out activities authorized under the Act.

In addition, for necessary expenses incurred in carrying out responsibilities of the Secretary of the Interior under the Act, $1,100,000, to remain available until expended.

BUREAU OF RECLAMATION

For carrying out the functions of the Bureau of Reclamation as provided in the Federal reclamation laws (Act of June 17, 1902, 32 Stat. 388, and Acts amendatory thereof or supplementary thereto) and other Acts applicable to that Bureau as follows:

GENERAL INVESTIGATIONS

For engineering and economic investigations of proposed Federal reclamation projects and studies of water conservation and development plans and activities preliminary to the reconstruction, rehabilitation and betterment, financial adjustment, or extension of existing projects, $18,105,000, to remain available until expended: Provided, That of the total appropriated, the amount for program activities which can be financed by the reclamation fund shall be derived from that fund: Provided further, That funds contributed by non-Federal entities for purposes similar to this appropriation shall be available for expenditure for the purposes for which contributed as though specifically appropriated for said purposes, and such amounts shall remain available until expended: Provided further, That within available funds, $150,000 is for completion of the feasibility study of alternatives for meeting the drinking water needs of Cheyenne River Sioux Reservation and surrounding communities.

CONSTRUCTION PROGRAM

(INCLUDING TRANSFER OF FUNDS)

For construction and rehabilitation of projects and parts thereof (including power transmission facilities for Bureau of Reclamation use) and for other related activities as authorized by law, $398,596,700, to remain available until expended, of which $23,410,000 shall be available for transfer to the Upper Colorado River Basin Fund authorized by section 5 of the Act of April 11, 1956 (43 U.S.C. 620d), and $58,325,700 shall be available for transfer to the Lower Colorado River Basin Development Fund authorized by section 403 of the Act of September 30, 1968 (43 U.S.C. 1543), and such amounts as may be necessary shall be considered as though advanced to the Colorado River Dam Fund for the Boulder Canyon Project as authorized by the Act of December 21, 1928, as amended, and that $12,500,000 shall be available for the Mid-Dakota Rural Water System: Provided, That of the total appropriated, the amount for program activities which can be financed by the reclamation fund shall be derived from that fund: Provided further, That transfers to the Upper Colorado River Basin Fund and Lower Colorado River Basin Development Fund may be increased or decreased by transfers within the overall appropriation under this heading: Provided further, That funds contributed by non-Federal entities for purposes similar to this appropriation shall be available for expenditure for the purposes for which contributed as though specifically appropriated for said purposes, and such funds shall remain available until expended: Provided further, That all costs of the safety of dams modification work at Coolidge Dam, San Carlos Irrigation Project, Arizona, performed under the authority of the Reclamation Safety of Dams Act of 1978 (43 U.S.C. 506), as amended, are in addition to the amount authorized in section 5 of said Act: Provided further, That section 301 of Public Law 102–250, Reclamation States Emergency Drought Relief Act of 1991, is amended by inserting ''1996, and 1997'' in lieu of ''and 1996'': Provided further, That the amount authorized by section 210 of Public Law 100–557 (102 Stat. 2791), is amended to $56,362,000 (October 1996 prices plus or minus cost indexing), and funds are authorized to be appropriated through the twelfth fiscal year after conservation funds are first made available: Provided further, That $1,500,000 shall be available for construction of McCall Wastewater Treatment, Idaho facility, and $1,000,000 shall be available for Devils Lake Desalination, North Dakota Project.

OPERATION AND MAINTENANCE

For operation and maintenance of reclamation projects or parts thereof and other facilities, as authorized by law; and for a soil and moisture conservation program on lands under the jurisdiction of the Bureau of Reclamation, pursuant to law, $280,876,000, to remain available until expended: Provided, That of the total appropriated, the amount for program activities which can be financed by the reclamation fund shall be derived from that fund, and the amount for program activities which can be derived from the special fee account established pursuant to the Act of December 22, 1987 (16 U.S.C. 460l–6a, as amended), may be derived from that fund: Provided further, That funds advanced by water users for operation and maintenance of reclamation projects or parts thereof shall be deposited to the credit of this appropriation and may be expended for the same purpose and in the same manner as sums appropriated herein may be expended, and such advances shall remain available until expended: Provided further, That revenues in the Upper Colorado River Basin Fund shall be available for performing examination of existing structures on participating projects of the Colorado River Storage Project.

BUREAU OF RECLAMATION LOAN PROGRAM ACCOUNT

For the cost of direct loans and/or grants, $12,290,000, to remain available until expended, as authorized by the Small Reclamation Projects Act of August 6, 1956, as amended (43 U.S.C. 422a–422l): Provided, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974: Provided further, That these funds are available to subsidize gross obligations for the principal amount of direct loans not to exceed $37,000,000.

In addition, for administrative expenses necessary to carry out the program for direct loans and/or grants, $425,000: Provided, That of the total sums appropriated, the amount of program activities which can be financed by the reclamation fund shall be derived from the fund.

CENTRAL VALLEY PROJECT RESTORATION FUND

For carrying out the programs, projects, plans, and habitat restoration, improvement, and acquisition provisions of the Central Valley Project Improvement Act, such sums as may be collected in the Central Valley Project Restoration Fund pursuant to sections 3407(d), 3404(c)(3), 3405(f) and 3406(c)(1) of Public Law 102–575, to remain available until expended: Provided, That the Bureau of Reclamation is directed to levy additional mitigation and restoration payments totaling $30,000,000 (October 1992 price levels) on a three-year rolling average basis, as authorized by section 3407(d) of Public Law 102–575.

GENERAL ADMINISTRATIVE EXPENSES

For necessary expenses of general administration and related functions in the office of the Commissioner, the Denver office, and offices in the five regions of the Bureau of Reclamation, to remain available until expended, $48,307,000, to be derived from the reclamation fund and to be nonreimbursable pursuant to the Act of April 19, 1945 (43 U.S.C. 377): Provided, That no part of any other appropriation in this Act shall be available for activities or functions budgeted for the current fiscal year as general administrative expenses.

SPECIAL FUNDS

(TRANSFER OF FUNDS)

Sums herein referred to as being derived from the reclamation fund or special fee account are appropriated from the special funds in the Treasury created by the Act of June 17, 1902 (43 U.S.C. 391) or the Act of December 22, 1987 (16 U.S.C. 460l–6a, as amended), respectively. Such sums shall be transferred, upon request of the Secretary, to be merged with and expended under the heads herein specified.

ADMINISTRATIVE PROVISION

Appropriations for the Bureau of Reclamation shall be available for purchase of not to exceed 6 passenger motor vehicles for replacement only.

TITLE III

DEPARTMENT OF ENERGY

ENERGY PROGRAMS

ENERGY SUPPLY, RESEARCH AND DEVELOPMENT ACTIVITIES

For expenses of the Department of Energy activities including the purchase, construction and acquisition of plant and capital equipment and other expenses necessary for energy supply, research and development activities in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101, et seq.), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion; purchase of passenger motor vehicles (not to exceed 24 for replacement only), $2,764,043,000, to remain available until expended: Provided, That $5,000,000 shall be available for research into reducing the costs of converting saline water to fresh water.

URANIUM SUPPLY AND ENRICHMENT ACTIVITIES

For expenses of the Department of Energy in connection with operating expenses; the purchase, construction, and acquisition of plant and capital equipment and other expenses necessary for uranium supply and enrichment activities in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101, et seq.) and the Energy Policy Act (Public Law 102–486, section 901), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion; purchase of electricity as necessary; and the purchase of passenger motor vehicles (not to exceed 3 for replacement only); $42,200,000, to remain available until expended: Provided, That revenues received by the Department for uranium programs and estimated to total $42,200,000 in fiscal year 1997 shall be retained and used for the specific purpose of offsetting costs incurred by the Department for such activities notwithstanding the provisions of 31 U.S.C. 3302(b) and 42 U.S.C. 2296(b)(2): Provided further, That the sum herein appropriated shall be reduced as revenues are received during fiscal year 1997 so as to result in a final fiscal year 1997 appropriation from the General Fund estimated at not more than $0.

Section 161k. of the Atomic Energy Act of 1954 (42 U.S.C. 2201k) with respect to the Paducah Gaseous Diffusion Plant, Kentucky, and the Portsmouth Gaseous Diffusion Plant, Ohio, the guidelines shall require, at a minimum, the presence of an adequate number of security guards carrying side arms at all times to ensure maintenance of security at the gaseous diffusion plants.

Section 311(b) of the USEC Privatization Act (Public Law 104–134, title III, chapter 1, subchapter A) insert the following:

''(3) The Corporation shall pay to the Thrift Savings Fund such employee and agency contributions as are required or authorized by sections 8432 and 8351 of title 5, United States Code, for employees who elect to retain their coverage under CSRS or FERS pursuant to paragraph (1).''.

URANIUM ENRICHMENT DECONTAMINATION AND DECOMMISSIONING FUND

For necessary expenses in carrying out uranium enrichment facility decontamination and decommissioning, remedial actions and other activities of title II of the Atomic Energy Act of 1954 and title X, subtitle A of the Energy Policy Act of 1992, $205,200,000, to be derived from the Fund, to remain available until expended.

GENERAL SCIENCE AND RESEARCH ACTIVITIES

For expenses of the Department of Energy activities including the purchase, construction and acquisition of plant and capital equipment and other expenses necessary for general science and research activities in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101, et seq.), including the acquisition or condemnation of any real property or facility or for plant or facility acquisition, construction, or expansion, $1,000,626,000, to remain available until expended.

NUCLEAR WASTE DISPOSAL FUND

For nuclear waste disposal activities to carry out the purposes of Public Law 97–425, as amended, including the acquisition of real property or facility construction or expansion, $200,028,000, to remain available until expended, to be derived from the Nuclear Waste Fund: Provided, That no later than June 30, 1998, the Secretary shall provide to the President and to the Congress a viability assessment of the Yucca Mountain site. The viability assessment shall include:

(1) the preliminary design concept for the critical elements for the repository and waste package;

(2) a total system performance assessment, based upon the design concept and the scientific data and analysis available by June 30, 1998, describing the probable behavior of the repository in the Yucca Mountain geological setting relative to the overall system performance standards;

(3) a plan and cost estimate for the remaining work required to complete a license application; and

(4) an estimate of the costs to construct and operate the repository in accordance with the design concept.

DEPARTMENTAL ADMINISTRATION

For salaries and expenses of the Department of Energy necessary for Departmental Administration in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101, et seq.), including the hire of passenger motor vehicles and official reception and representation expenses (not to exceed $35,000), $218,017,000, to remain available until expended, plus such additional amounts as necessary to cover increases in the estimated amount of cost of work for others notwithstanding the provisions of the Anti-Deficiency Act (31 U.S.C. 1511, et seq.): Provided, That such increases in cost of work are offset by revenue increases of the same or greater amount, to remain available until expended: Provided further, That moneys received by the Department for miscellaneous revenues estimated to total $125,388,000 in fiscal year 1997 may be retained and used for operating expenses within this account, and may remain available until expended, as authorized by section 201 of Public Law 95–238, notwithstanding the provisions of 31 U.S.C. 3302: Provided further, That the sum herein appropriated shall be reduced by the amount of miscellaneous revenues received during fiscal year 1997 so as to result in a final fiscal year 1997 appropriation from the General Fund estimated at not more than $92,629,000: Provided further, That funds made available by this Act for Departmental Administration may be used by the Secretary of Energy to offer employees voluntary separation incentives to meet staffing and budgetary reductions and restructuring needs through September 30, 1997 consistent with plans approved by the Office of Management and Budget. The amount of each incentive shall be equal to the smaller of the employee's severance pay, or $20,000. Voluntary separation recipients who accept employement with the Federal Government, or enter into a personal services contract with the Federal Government within five years after separation shall repay the entire amount to the Department of Energy: Provided further, That in addition to any other payments which it is required to make under subchapter III of chapter 83 or chapter 84 of title 5, United States Code, the Department of Energy shall remit to the Office of Personnel Management for deposit in the Treasury of the United States to the credit of the Civil Service Retirement and Disability Fund an amount equal to 15 percent of the final basic pay of each employee who is covered under subchapter III of chapter 83 or chapter 84 of title 5 to whom a voluntary separation incentive has been paid under this paragraph.

OFFICE OF THE INSPECTOR GENERAL

For necessary expenses of the Office of the Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $23,103,000, to remain available until expended.

ATOMIC ENERGY DEFENSE ACTIVITIES

WEAPONS ACTIVITIES

For Department of Energy expenses, including the purchase, construction and acquisition of plant and capital equipment and other expenses necessary for atomic energy defense weapons activities in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101, et seq.), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion; and the purchase of passenger motor vehicles (not to exceed 94 for replacement only), $3,988,602,000, to remain available until expended.

DEFENSE ENVIRONMENTAL RESTORATION AND WASTE MANAGEMENT

For Department of Energy expenses, including the purchase, construction and acquisition of plant and capital equipment and other expenses necessary for atomic energy defense environmental restoration and waste management activities in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101, et seq.), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion; and the purchase of passenger motor vehicles (not to exceed 20, of which 19 are for replacement only), $5,605,210,000, to remain available until expended: Provided, That an additional amount of $182,000,000 is available for privatization initiatives: Provided further, That within available funds, up to $2,000,000 is provided for demonstration of stir-melter technology developed by the Department and previously intended to be used at the Savannah River Site. In carrying out this demonstration, the Department is directed to seek alternative use of this technology in order to maximize the investment already made in this technology.

Of amounts appropriated for the Defense Environmental Restoration and Waste Management Technology Development Program, $5,000,000 shall be available for the electrometallurgical treatment of spent nuclear fuel at Argonne National Laboratory.

OTHER DEFENSE ACTIVITIES

For Department of Energy expenses, including the purchase, construction and acquisition of plant and capital equipment and other expenses necessary for atomic energy defense, other defense activities, in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101, et seq.), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion, and the purchase of passenger motor vehicles (not to exceed 2 for replacement only), $1,606,833,000, to remain available until expended.

DEFENSE NUCLEAR WASTE DISPOSAL

For nuclear waste disposal activities to carry out the purposes of Public Law 97–425, as amended, including the acquisition of real property or facility construction or expansion, $200,000,000, to remain available until expended.

POWER MARKETING ADMINISTRATIONS

OPERATION AND MAINTENANCE, ALASKA POWER ADMINISTRATION

For necessary expenses of operation and maintenance of projects in Alaska and of marketing electric power and energy, $4,000,000, to remain available until expended.

BONNEVILLE POWER ADMINISTRATION FUND

Expenditures from the Bonneville Power Administration Fund, established pursuant to Public Law 93–454, are approved for official reception and representation expenses in an amount not to exceed $3,000.

During fiscal year 1997, no new direct loan obligations may be made.

OPERATION AND MAINTENANCE, SOUTHEASTERN POWER ADMINISTRATION

For necessary expenses of operation and maintenance of power transmission facilities and of marketing electric power and energy pursuant to the provisions of section 5 of the Flood Control Act of 1944 (16 U.S.C. 825s), as applied to the southeastern power area, $13,859,000, to remain available until expended.

OPERATION AND MAINTENANCE, SOUTHWESTERN POWER ADMINISTRATION

For necessary expenses of operation and maintenance of power transmission facilities and of marketing electric power and energy, and for construction and acquisition of transmission lines, substations and appurtenant facilities, and for administrative expenses, including official reception and representation expenses in an amount not to exceed $1,500 in carrying out the provisions of section 5 of the Flood Control Act of 1944 (16 U.S.C. 825s), as applied to the southwestern power area, $25,210,000, to remain available until expended; in addition, notwithstanding the provisions of 31 U.S.C. 3302, not to exceed $3,787,000 in reimbursements, to remain available until expended.

CONSTRUCTION, REHABILITATION, OPERATION AND MAINTENANCE, WESTERN AREA POWER ADMINISTRATION

(INCLUDING TRANSFER OF FUNDS)

For carrying out the functions authorized by title III, section 302(a)(1)(E) of the Act of August 4, 1977 (42 U.S.C. 7101, et seq.), and other related activities including conservation and renewable resources programs as authorized, including official reception and representation expenses in an amount not to exceed $1,500, $201,582,000, to remain available until expended, of which $172,378,000 shall be derived from the Department of the Interior Reclamation Fund: Provided, That of the amount herein appropriated, $5,432,000 is for deposit into the Utah Reclamation Mitigation and Conservation Account pursuant to title IV of the Reclamation Projects Authorization and Adjustment Act of 1992: Provided further, That the Secretary of the Treasury is authorized to transfer from the Colorado River Dam Fund to the Western Area Power Administration $3,774,000 to carry out the power marketing and transmission activities of the Boulder Canyon project as provided in section 104(a)(4) of the Hoover Power Plant Act of 1984, to remain available until expended.

FALCON AND AMISTAD OPERATING AND MAINTENANCE FUND

For operation, maintenance, and emergency costs for the hydroelectric facilities at the Falcon and Amistad Dams, $970,000, to remain

available until expended, and to be derived from the Falcon and Amistad Operating and Maintenance Fund of the Western Area Power Administration, as provided in section 423 of the Foreign Relations Authorization Act, fiscal years 1994 and 1995.

FEDERAL ENERGY REGULATORY COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Federal Energy Regulatory Commission to carry out the provisions of the Department of Energy Organization Act (42 U.S.C. 7101, et seq.), including services as authorized by 5 U.S.C. 3109, the hire of passenger motor vehicles, and official reception and representation expenses (not to exceed $3,000), $146,290,000, to remain available until expended: Provided, That notwithstanding any other provision of law, not to exceed $146,290,000 of revenues from fees and annual charges, and other services and collections in fiscal year 1997 shall be retained and used for necessary expenses in this account, and shall remain available until expended: Provided further, That the sum herein appropriated shall be reduced as revenues are received during fiscal year 1997 so as to result in a final fiscal year 1997 appropriation from the General Fund estimated at not more than $0.

TITLE IV

INDEPENDENT AGENCIES

APPALACHIAN REGIONAL COMMISSION

For expenses necessary to carry out the programs authorized by the Appalachian Regional Development Act of 1965, as amended, notwithstanding section 405 of said Act, and for necessary expenses for the Federal Co-Chairman and the alternate on the Appalachian Regional Commission and for payment of the Federal share of the administrative expenses of the Commission, including services as authorized by 5 U.S.C. 3109, and hire of passenger motor vehicles, $165,000,000, to remain available until expended.

DEFENSE NUCLEAR FACILITIES SAFETY BOARD

SALARIES AND EXPENSES

For necessary expenses of the Defense Nuclear Facilities Safety Board in carrying out activities authorized by the Atomic Energy Act of 1954, as amended by Public Law 100–456, section 1441, $17,000,000, to remain available until expended.

DELAWARE RIVER BASIN COMMISSION

CONTRIBUTION TO DELAWARE RIVER BASIN COMMISSION

For payment of the United States share of the current expenses of the Delaware River Basin Commission, as authorized by law (75 Stat. 706, 707), $500,000.

SALARIES AND EXPENSES

For expenses necessary to carry out the functions of the United States member of the Delaware River Basin Commission, as authorized by law (75 Stat. 716), $342,000.

INTERSTATE COMMISSION ON THE POTOMAC RIVER BASIN

CONTRIBUTION TO INTERSTATE COMMISSION ON THE POTOMAC RIVER BASIN

To enable the Secretary of the Treasury to pay in advance to the Interstate Commission on the Potomac River Basin the Federal contribution toward the expenses of the Commission during the current fiscal year in the administration of its business in the conservancy district established pursuant to the Act of July 11, 1940 (54 Stat. 748), as amended by the Act of September 25, 1970 (Public Law 91–407), $508,000.

NUCLEAR REGULATORY COMMISSION

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses of the Commission in carrying out the purposes of the Energy Reorganization Act of 1974, as amended, and the Atomic Energy Act of 1954, as amended, including the employment of aliens; services authorized by 5 U.S.C. 3109; publication and dissemination of atomic information; purchase, repair, and cleaning of uniforms; official representation expenses (not to exceed $20,000); reimbursements to the General Services Administration for security guard services; hire of passenger motor vehicles and aircraft, $471,800,000, to remain available until expended: Provided, That of the amount appropriated herein, $11,000,000 shall be derived from the Nuclear Waste Fund, subject to the authorization required in this bill under the heading, ''Nuclear Waste Disposal Fund'': Provided further, That from this appropriation, transfer of sums may be made to other agencies of the Government for the performance of the work for which this appropriation is made, and in such cases the sums so transferred may be merged with the appropriation to which transferred: Provided further, That moneys received by the Commission for the cooperative nuclear safety research program, services rendered to foreign governments and international organizations, and the material and information access authorization programs, including criminal history checks under section 149 of the Atomic Energy Act may be retained and used for salaries and expenses associated with those activities, notwithstanding 31 U.S.C. 3302, and shall remain available until expended: Provided further, That revenues from licensing fees, inspection services, and other services and collections estimated at $457,300,000 in fiscal year 1997 shall be retained and used for necessary salaries and expenses in this account, notwithstanding 31 U.S.C. 3302, and shall remain available until expended: Provided further, That the funds herein appropriated for regulatory reviews and other activities pertaining to waste stored at the Hanford site, Washington, shall be excluded from license fee revenues, notwithstanding 42 U.S.C. 2214: Provided further, That the sum herein appropriated shall be reduced by the amount of revenues received during fiscal year 1997 from licensing fees, inspection services and other services and collections, excluding those moneys received for the cooperative nuclear safety research program, services rendered to foreign governments and international organizations, and the material and information access authorization programs, so as to result in a final fiscal year 1997 appropriation estimated at not more than $14,500,000.

OFFICE OF INSPECTOR GENERAL

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, including services authorized by 5 U.S.C. 3109, $5,000,000, to remain available until expended; and in addition, an amount not to exceed 5 percent of this sum may be transferred from Salaries and Expenses, Nuclear Regulatory Commission: Provided, That notice of such transfers shall be given to the Committees on Appropriations of the House and Senate: Provided further, That from this appropriation, transfers of sums may be made to other agencies of the Government for the performance of the work for which this appropriation is made, and in such cases the sums so transferred may be merged with the appropriation to which transferred: Provided further, That revenues from licensing fees, inspection services, and other services and collections shall be retained and used for necessary salaries and expenses in this account, notwithstanding 31 U.S.C. 3302, and shall remain available until expended: Provided further, That the sum herein appropriated shall be reduced by the amount of revenues received during fiscal year 1997 from licensing fees, inspection services, and other services and collections, so as to result in a final fiscal year 1997 appropriation estimated at not more than $0.

NUCLEAR WASTE TECHNICAL REVIEW BOARD

SALARIES AND EXPENSES

For necessary expenses of the Nuclear Waste Technical Review Board, as authorized by Public Law 100–203, section 5051, $2,531,000, to be transferred from the Nuclear Waste Fund and to remain available until expended.

SUSQUEHANNA RIVER BASIN COMMISSION

CONTRIBUTION TO SUSQUEHANNA RIVER BASIN COMMISSION

For payment of the United States share of the current expenses of the Susquehanna River Basin Commission, as authorized by law (84 Stat. 1530, 1531), $300,000.

SALARIES AND EXPENSES

For expenses necessary to carry out the functions of the United States member of the Susquehanna River Basin Commission as authorized by law (84 Stat. 1541), $322,000.

TENNESSEE VALLEY AUTHORITY

For the purpose of carrying out the provisions of the Tennessee Valley Authority Act of 1933, as amended (16 U.S.C. ch. 12A), including hire, maintenance, and operation of aircraft, and purchase and hire of passenger motor vehicles, $113,000,000, to remain available until expended: Provided, That of the funds provided herein, not more than $20,000,000 shall be made available for the Environmental Research Center in Muscle Shoals, Alabama: Provided further, That of the funds provided herein, not more than $8,000,000 shall be made available for operation, maintenance, improvement, and surveillance of Land Between the Lakes: Provided further, That of the amount provided herein, not more than $9,000,000 shall be available for Economic Development activities: Provided further, That none of the funds provided herein, shall be available for detailed engineering and design or constructing a replacement for Chickamauga Lock and Dam on the Tennessee River System.

TITLE V

GENERAL PROVISIONS

SEC. 501. (a) PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS.—It is the sense of the Congress that, to the greatest extent practicable, all equipment and products purchased with funds made available in this Act should be American-made.

(b) NOTICE REQUIREMENT.—In providing financial assistance to, or entering into any contract with, any entity using funds made available in this Act, the head of each Federal agency, to the greatest extent practicable, shall provide to such entity a notice describing the statement made in subsection (a) by the Congress.

SEC. 502. The Secretary of the Interior shall extend the construction repayment and water service contracts for the following projects, entered into by the Secretary of the Interior under subsections (d) and (e) of section 9 of the Reclamation Project Act of 1939 (43 U.S.C. 485h) and section 9(c) of the Act of December 22, 1944 (58 Stat. 891, chapter 665), for a period of 1 additional year after the dates on which each of the contracts, respectively, would expire but for this section:

(1) The Bostwick District (Kansas portion), Missouri River Basin Project, consisting of the project constructed and operated under the Act of December 22, 1944 (58 Stat. 887, chapter 665), as a component of the Pick-Sloan Missouri Basin Program, situated in Republic County, Jewell County, and Cloud County, Kansas.

(2) The Bostwick District (Nebraska portion), Missouri River Basin Project, consisting of the project constructed and operated under the Act of December 22, 1944 (58 Stat. 887, chapter 665), as a component of the Pick-Sloan Missouri Basin Program, situated in Harlan County, Franklin County, Webster County, and Nuckolls County, Nebraska.

(3) The Frenchman-Cambridge District, Missouri River Basin Project, consisting of the project constructed and operated under the Act of December 22, 1944 (58 Stat. 887, chapter 665), as a component of the Pick-Sloan Missouri Basin Program, situated in Chase County, Frontier County, Hitchcock County, Furnas County, and Harlan County, Nebraska.

SEC. 503. Notwithstanding the provisions of 31 U.S.C., funds made available by this Act to the Department of Energy shall be available only for the purposes for which they have been made available by this Act. The Department of Energy shall report monthly to the Committees on Appropriations of the House and Senate on the Department of Energy's adherence to the recommendations included in the accompanying report.

SEC. 504. Following section 4(g)(3) of the Northwest Power Planning and Conservation Act, insert the following new section:

''(4)(g)(4) INDEPENDENT SCIENTIFIC REVIEW PANEL.—(i) The Northwest Power Planning Council (Council) shall appoint an Independent Scientific Review Panel (Panel), which shall be comprised of eleven members, to review projects proposed to be funded through that portion of the Bonneville Power Administration's (BPA) annual fish and wildlife budget that implements the Council's annual fish and wildlife program. Members shall be appointed from a list submitted by the National Academy of Sciences: Provided, That Pacific Northwest scientists with expertise in Columbia River anadromous and non-anadromous fish and wildlife and ocean experts shall be among those represented on the Panel.

''(ii) SCIENTIFIC PEER REVIEW GROUPS.—The Council shall establish Scientific Peer Review Groups (Peer Review Groups), which shall be comprised of the appropriate number of scientists, from a list submitted by the National Academy of Sciences to assist the Panel in making its recommendations to the Council for projects to be funded through BPA's annual fish and wildlife budget: Provided, That Pacific Northwest scientists with expertise in Columbia River anadromous and non-anadromous fish and wildlife and ocean experts shall be among those represented on the Peer Review Groups.

''(iii) CONFLICT OF INTEREST AND COMPENSATION.—Panel and Peer Review Group members may be compensated and shall be considered as special government employees subject to 45 CFR 684.10 through 684.22.

''(iv) PROJECT CRITERIA AND REVIEW.—The Peer Review Groups, in conjunction with the Panel, shall review projects proposed to be funded through BPA's annual fish and wildlife budget and make recommendations on matters related to such projects, to the Council. Project recommendations shall be based on a determination that projects are based on sound science principles; benefit fish and wildlife; and have a clearly defined objective and outcome with provisions for monitoring and evaluation of results. The Panel, with assistance from the Peer Review Groups, shall review, on an annual basis, the results of prior year expenditures based upon these criteria and submit its findings to the Council for its review.

''(v) PUBLIC REVIEW.—Upon completion of the review of projects to be funded through BPA's annual fish and wildlife budget, the Peer Review Groups shall submit their findings to the Panel. The Panel shall analyze the information submitted by the Peer Review Groups and submit recommendations on project priorities to the Council. The Council shall make the Panel's findings available to the public and subject to public comment.

''(vi) RESPONSIBILITIES OF THE COUNCIL.—The Council shall fully consider the recommendations of the Panel when making its final recommendations of projects to be funded through BPA's annual fish and wildlife budget, and if the Council does not incorporate a recommendation of the Panel, the Council shall explain in writing its reasons for not accepting Panel recommendations. In making its recommendations to BPA, the Council shall: consider the impact of ocean conditions on fish and wildlife populations; and shall determine whether the projects employ cost effective measures to achieve project objectives. The Council, after consideration of the recommendations of the Panel and other appropriate entities shall be responsible for making the final recommendations of projects to be funded through BPA's annual fish and wildlife budget.

''(vii) COST LIMITATION.—The cost of this provision shall not exceed $2,000,000 in 1997 dollars.

''(viii) EXPIRATION.—This paragraph shall expire on September 30, 2000.''.

SEC. 505. OPPORTUNITY FOR REVIEW AND COMMENT BY STATE OF OREGON ON CERTAIN REMEDIAL ACTIONS AT HANFORD RESERVATION, WASHINGTON.

(a) OPPORTUNITY.—(1) Subject to subsection (b), the Site Manager at the Hanford Reservation, Washington, shall, in consultation with the signatories to the Tri-Party Agreement, provide the State of Oregon an opportunity to review and comment upon any information the Site Manager provides the State of Washington under the Hanford Tri-Party Agreement if the agreement provides for the review and comment upon such information by the State of Washington.

(2) In order to facilitate the review and comment of the State of Oregon under paragraph (1), the Site Manager shall provide information referred to in that paragraph to the State of Oregon at the same time, or as soon thereafter as is practicable, that the Site Manager provides such information to the State of Washington.

(b) CONSTRUCTION.—This section may not be construed—

(1) to require the Site Manager to provide the State of Oregon sensitive information on enforcement under the Tri-Party Agreement or information on the negotiation, dispute resolution, or State cost recovery provisions of the agreement;

(2) to require the Site Manager to provide confidential information on the budget or procurement at Hanford under terms other than those provided in the Tri-Party Agreement for the transmission of such confidential information to the State of Washington;

(3) to authorize the State of Oregon to participate in enforcement actions, dispute resolution, or negotiation actions, conducted under the provisions of the Tri-Party Agreement;

(4) to authorize any delay in the implementation of remedial, environmental management, or other programmatic activities at Hanford; or

(5) to obligate the Department of Energy to provide additional funds to the State of Oregon.''.

SEC. 506. SENSE OF THE SENATE, HANFORD MEMORANDUM OF UNDERSTANDING.

It is the Sense of the Senate that—

(1) the State of Oregon has the authority to enter into a memorandum of understanding with the State of Washington, or a memorandum of understanding with the State of Washington and the Site Manager of the Hanford Reservation, Washington, in order to address issues of mutual concern to such States regarding the Hanford Reservation; and

(2) such agreements are not expected to create any additional obligation of the Department of Energy to provide funds to the State of Oregon.

SEC. 507. CORPUS CHRISTI EMERGENCY DROUGHT RELIEF.

For the purpose of providing emergency drought relief, the Secretary of the Interior shall defer all principal and interest payments without penalty or accrued interest for a period of one year for the city of Corpus Christi, Texas, and the Nueces River Authority under contract No. 6–07–01–X0675 involving the Nueces River Reclamation Project, Texas.

SEC. 508. CANADIAN RIVER MUNICIPAL WATER AUTHORITY EMERGENCY DROUGHT RELIEF.

The Secretary shall defer all principal and interest payments without penalty or accrued interest for a period of one year for the Canadian River Municipal Water Authority under contract No. 14–06–500–485 as emergency drought relief to enable construction of additional water supply and conveyance facilities.

SEC. 509. INTERSTATE TRANSPORTATION OF MUNICIPAL SOLID WASTE.

(a) INTERSTATE WASTE.—

(1) INTERSTATE TRANSPORTATION OF MUNICIPAL SOLID WASTE.—

(A) AMENDMENT.—Subtitle D of the Solid Waste Disposal Act (42 U.S.C. 6941 et seq.) is amended by adding at the end the following new section:

''SEC. 4011. INTERSTATE TRANSPORTATION OF MUNICIPAL SOLID WASTE.

''(a) AUTHORITY TO RESTRICT OUT-OF-STATE MUNICIPAL SOLID WASTE.—(1) Except as provided in paragraph (4), immediately upon the date of enactment of this section if requested in writing by an affected local government, a Governor may prohibit the disposal of out-of-State municipal solid waste in any landfill or incinerator that is not covered by the exceptions provided in subsection (b) and that is subject to the jurisdiction of the Governor and the affected local government.

''(2) Except as provided in paragraph (4), immediately upon the date of publication of the list required in paragraph (6)(C) and notwithstanding the absence of a request in writing by the affected local government, a Governor, in accordance with paragraph (5), may limit the quantity of out-of-State municipal solid waste received for disposal at each landfill or incinerator covered by the exceptions provided in subsection (b) that is subject to the jurisdiction of the Governor, to an annual amount equal to or greater than the quantity of out-of-State municipal solid waste received for disposal at such landfill or incinerator during calendar year 1993.

''(3)(A) Except as provided in paragraph (4), any State that imported more than 750,000 tons of out-of-State municipal solid waste in 1993 may establish a limit under this paragraph on the amount of out-of-State municipal solid waste received for disposal at landfills and incinerators in the importing State as follows:

''(i) In calendar year 1996, 95 percent of the amount exported to the State in calendar year 1993.

''(ii) In calendar years 1997 through 2002, 95 percent of the amount exported to the State in the previous year.

''(iii) In calendar year 2003, and each succeeding year, the limit shall be 65 percent of the amount exported in 1993.

''(iv) No exporting State shall be required under this subparagraph to reduce its exports to any importing State below the proportionate amount established herein.

''(B)(i) No State may export to landfills or incinerators in any 1 State that are not covered by host community agreements or permits authorizing receipt of out-of-State municipal solid waste more than the following amounts of municipal solid waste:

''(I) In calendar year 1996, the greater of 1,400,000 tons or 90 percent of the amount exported to the State in calendar year 1993.

''(II) In calendar year 1997, the greater of 1,300,000 tons or 90 percent of the amount exported to the State in calendar year 1996.

''(III) In calendar year 1998, the greater of 1,200,000 tons or 90 percent of the amount exported to the State in calendar year 1997.

''(IV) In calendar year 1999, the greater of 1,100,000 tons or 90 percent of the amount exported to the State in calendar year 1998.

''(V) In calendar year 2000, 1,000,000 tons.

''(VI) In calendar year 2001, 750,000 tons.

''(VII) In calendar year 2002 or any calendar year thereafter, 550,000 tons.

''(ii) The Governor of an importing State may take action to restrict levels of imports to reflect the appropriate level of out-of-State municipal solid waste imports if—

''(I) the Governor of the importing State has notified the Governor of the exporting State and the Administrator, 12 months prior to taking any such action, of the importing State's intention to impose the requirements of this section;

''(II) the Governor of the importing State has notified the Governor of the exporting State and the Administrator of the violation by the exporting State of this section at least 90 days prior to taking any such action; and

''(III) the restrictions imposed by the Governor of the importing State are uniform at all facilities and the Governor of the importing State may only apply subparagraph (A) or (B) but not both.

''(C) The authority provided by subparagraphs (A) and (B) shall apply for as long as a State exceeds the permissible levels as determined by the Administrator under paragraph (6)(C).

''(4)(A) A Governor may not exercise the authority granted under this section if such action would result in the violation of, or would otherwise be inconsistent with, the terms of a host community agreement or a permit issued from the State to receive out-of-State municipal solid waste.

''(B) Except as provided in paragraph (3), a Governor may not exercise the authority granted under this section in a manner that would require any owner or operator of a landfill or incinerator covered by the exceptions provided in subsection (b) to reduce the amount of out-of-State municipal solid waste received from any State for disposal at such landfill or incinerator to an annual quantity less than the amount received from such State for disposal at such landfill or incinerator during calendar year 1993.

''(5) Any limitation imposed by a Governor under paragraph (2) or (3)—

''(A) shall be applicable throughout the State;

''(B) shall not directly or indirectly discriminate against any particular landfill or incinerator within the State; and

''(C) shall not directly or indirectly discriminate against any shipments of out-of-State municipal solid waste on the basis of place of origin and all such limitations shall be applied to all States in violation of paragraph (3).

''(6) ANNUAL STATE REPORT.—

''(A) IN GENERAL.—Within 90 days after enactment of this section and on April 1 of each year thereafter the owner or operator of each landfill or incinerator receiving out-of-State municipal solid waste shall submit to the affected local government and to the Governor of the State in which the landfill or incinerator is located, information specifying the amount and State of origin of out-of-State municipal solid waste received for disposal during the preceding calendar year, and the amount of waste that was received pursuant to host community agreements or permits authorizing receipt of out-of-State municipal solid waste. Within 120 days after enactment of this section and on May 1 of each year thereafter each State shall publish and make available to the Administrator, the Governor of the State of origin and the public, a report containing information on the amount of out-of-State municipal solid waste received for disposal in the State during the preceding calendar year.

''(B) CONTENTS.—Each submission referred to in this section shall be such as would result in criminal penalties in case of false or misleading information. Such information shall include the amount of waste received, the State of origin, the identity of the generator, the date of the shipment, and the type of out-of-State municipal solid waste. States making submissions referred to in this section to the Administrator shall notice these submissions for public review and comment at the State level before submitting them to the Administrator.

''(C) LIST.—The Administrator shall publish a list of importing States and the out-of-State municipal solid waste received from each State at landfills or incinerators not covered by host community agreements or permits authorizing receipt of out-of-State municipal solid waste. The list for any calendar year shall be published by June 1 of the following calendar year.

For purposes of developing the list required in this section, the Administrator shall be responsible for collating and publishing only that information provided to the Administrator by States pursuant to this section. The Administrator shall not be required to gather additional data over and above that provided by the States pursuant to this section, nor to verify data provided by the States pursuant to this section, nor to arbitrate or otherwise entertain or resolve disputes between States or other parties concerning interstate movements of municipal solid waste. Any actions by the Administrator under this section shall be final and not subject to judicial review.

''(D) SAVINGS PROVISION.—Nothing in this subsection shall be construed to preempt any State requirement that requires more frequent reporting of information.

''(7) Any affected local government that intends to submit a request under paragraph (1) or take formal action to enter into a host community agreement after the date of enactment of this subsection shall, prior to taking such action—

''(A) notify the Governor, contiguous local governments, and any contiguous Indian tribes;

''(B) publish notice of the action in a newspaper of general circulation at least 30 days before taking such action;

''(C) provide an opportunity for public comment; and

''(D) following notice and comment, take formal action on any proposed request or action at a public meeting.

''(8) Any owner or operator seeking a host community agreement after the date of enactment of this subsection shall provide to the affected local government the following information, which shall be made available to the public from the affected local government:

''(A) A brief description of the planned facility, including a description of the facility size, ultimate waste capacity, and anticipated monthly and yearly waste quantities to be handled.

''(B) A map of the facility site that indicates the location of the facility in relation to the local road system and topographical and hydrological features and any buffer zones and facility units to be acquired by the owner or operator of the facility.

''(C) A description of the existing environmental conditions at the site, and any violations of applicable laws or regulations.

''(D) A description of environmental controls to be utilized at the facility.

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

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

''(G) Any information that is required by State or Federal law to be provided with respect to any violations of environmental laws (including regulations) by the owner and operator, the disposition of enforcement proceedings taken with respect to the violations, and corrective measures taken as a result of the proceedings.

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

''(b) EXCEPTIONS TO AUTHORITY TO PROHIBIT OUT-OF-STATE MUNICIPAL SOLID WASTE.—(1) The authority to prohibit the disposal of out-of-State municipal solid waste provided under subsection (a)(1) shall not apply to landfills and incinerators in operation on the date of enactment of this section that—

''(A) received during calendar year 1993 documented shipments of out-of-State municipal solid waste; and

''(B)(i) in the case of landfills, are in compliance with all applicable Federal and State laws and regulations relating to operation, design and location standards, leachate collection, ground water monitoring, and financial assurance for closure and post-closure and corrective action; or

''(ii) in the case of incinerators, are in compliance with the applicable requirements of section 129 of the Clean Air Act (42 U.S.C. 7429) and applicable State laws and regulations relating to facility design and operations.

''(2) A Governor may not prohibit the disposal of out-of-State municipal solid waste pursuant to subsection (a)(1) at facilities described in this subsection that are not in compliance with applicable Federal and State laws and regulations unless disposal of municipal solid waste generated within the State at such facilities is also prohibited.

''(c) ADDITIONAL AUTHORITY TO LIMIT OUT-OF-STATE MUNICIPAL SOLID WASTE.—(1) In any case in which an affected local government is considering entering into, or has entered into, a host community agreement and the disposal or incineration of out-of-State municipal solid waste under such agreement would preclude the use of municipal solid waste management capacity described in paragraph (2), the Governor of the State in which the affected local government is located may prohibit the execution of such host community agreement with respect to that capacity.

''(2) The municipal solid waste management capacity referred to in paragraph (1) is that capacity—

''(A) that is permitted under Federal or State law;

''(B) that is identified under the State plan; and

''(C) for which a legally binding commitment between the owner or operator and another party has been made for its use for disposal or incineration of municipal solid waste generated within the region (identified under section 4006(a)) in which the local government is located.

''(d) COST RECOVERY SURCHARGE.—

''(1) AUTHORITY.—A State described in paragraph (2) may adopt a law and impose and collect a cost recovery charge on the processing or disposal of out-of-State municipal solid waste in the State in accordance with this subsection.

''(2) APPLICABILITY.—The authority to impose a cost recovery surcharge under this subsection applies to any State that on or before April 3, 1994, imposed and collected a special fee on the processing or disposal of out-of-State municipal solid waste pursuant to a State law.

''(3) LIMITATION.—No such State may impose or collect a cost recovery surcharge from a facility on any out-of-State municipal solid waste that is being received at the facility under 1 or more contracts entered into after April 3, 1994, and before the date of enactment of this section.

''(4) AMOUNT OF SURCHARGE.—The amount of the cost recovery surcharge may be no greater than the amount necessary to recover those costs determined in conformance with paragraph (6) and in no event may exceed $1.00 per ton of waste.

''(5) USE OF SURCHARGE COLLECTED.—All cost recovery surcharges collected by a State covered by this subsection shall be used to fund those solid waste management programs administered by the State or its political subdivision that incur costs for which the surcharge is collected.

''(6) CONDITIONS.—(A) Subject to subparagraphs (B) and (C), a State covered by this subsection may impose and collect a cost recovery surcharge on the processing or disposal within the State of out-of-State municipal solid waste if—

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

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

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

''(B) In no event shall a cost recovery surcharge be imposed by a State to the extent that the cost for which recovery is sought is otherwise paid, recovered, or offset by any other fee or tax paid to the State or its political subdivision or to the extent that the amount of the surcharge is offset by voluntarily agreed payments to a State or its political subdivision in connection with the generation, transportation, treatment, processing, or disposal of solid waste.

''(C) The grant of a subsidy by a State with respect to entities disposing of waste generated within the State does not constitute discrimination for purposes of subparagraph (A)(iii).

''(7) DEFINITIONS.—As used in this subsection:

''(A) The term 'costs' means the costs incurred by the State for the implementation of its laws governing the processing or disposal of municipal solid waste, limited to the issuance of new permits and renewal of or modification of permits, inspection and compliance monitoring, enforcement, and costs associated with technical assistance, data management, and collection of fees.

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

''(e) SAVINGS CLAUSE.—Nothing in this section shall be interpreted or construed—

''(1) to have any effect on State law relating to contracts; or

''(2) to affect the authority of any State or local government to protect public health and the environment through laws, regulations, and permits, including the authority to limit the total amount of municipal solid waste that landfill or incinerator owners or operators within the jurisdiction of a State may accept during a prescribed period: Provided That such limitations do not discriminate between in-State and out-of-State municipal solid waste, except to the extent authorized by this section.

''(f) DEFINITIONS.—As used in this section:

''(1)(A) The term 'affected local government', used with respect to a landfill or incinerator, means—

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

''(ii) the elected officials of the city, town, township, borough, county, or parish exercising primary responsibility over municipal solid waste management or the use of land in the jurisdiction in which the facility is located or is proposed to be located.

''(B)(i) Within 90 days after the date of enactment of this section, a Governor may designate and publish notice of which entity listed in clause (i) or (ii) of subparagraph (A) shall serve as the affected local government for actions taken under this section and after publication of such notice.

''(ii) If a Governor fails to make and publish notice of such a designation, the affected local government shall be the elected officials of the city, town, township, borough, county, parish, or other public body created pursuant to State law with primary jurisdiction over the land or the use of land on which the facility is located or is proposed to be located.

''(C) For purposes of host community agreements entered into before the date of publication of the notice, the term means either a public body described in subparagraph (A)(i) or the elected officials of any of the public bodies described in subparagraph (A)(ii).

''(2) HOST COMMUNITY AGREEMENT.—The term 'host community agreement' means a written, legally binding document or documents executed by duly authorized officials of the affected local government that specifically authorizes a landfill or incinerator to receive municipal solid waste generated out of State, but does not include any agreement to pay host community fees for receipt of waste unless additional express authorization to receive out-of-State waste is also included.

''(3) The term 'out-of-State municipal solid waste' means, with respect to any State, municipal solid waste generated outside of the State. Unless the President determines it is inconsistent with the North American Free Trade Agreement and the General Agreement on Tariffs and Trade, the term shall include municipal solid waste generated outside of the United States. Notwithstanding any other provision of law, generators of municipal solid waste outside the United States shall possess no greater right of access to disposal facilities in a State than United States generators of municipal solid waste outside of that State.

''(4) The term 'municipal solid waste' means refuse (and refuse-derived fuel) generated by the general public or from a residential, commercial, institutional, or industrial source (or any combination thereof), consisting of paper, wood, yard wastes, plastics, leather, rubber, or other combustible or noncombustible materials such as metal or glass (or any combination thereof). The term 'municipal solid waste' does not include—

''(A) any solid waste identified or listed as a hazardous waste under section 3001;

''(B) any solid waste, including contaminated soil and debris, resulting from a response action taken under section 104 or 106 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9604 or 9606) or a corrective action taken under this Act;

''(C) any metal, pipe, glass, plastic, paper, textile, or other material that has been separated or diverted from municipal solid waste (as otherwise defined in this paragraph) and has been transported into a State for the purpose of recycling or reclamation;

''(D) any solid waste that is—

''(i) generated by an industrial facility; and

''(ii) transported for the purpose of treatment, storage, or disposal to a facility that is owned or operated by the generator of the waste, or is located on property owned by the generator of the waste, or is located on property owned by a company in which the generator of the waste has an ownership interest;

''(E) any solid waste generated incident to the provision of service in interstate, intrastate, foreign, or overseas air transportation;

''(F) any industrial waste that is not identical to municipal solid waste (as otherwise defined in this paragraph) with respect to the physical and chemical state of the industrial waste, and composition, including construction and demolition debris;

''(G) any medical waste that is segregated from or not mixed with municipal solid waste (as otherwise defined in this paragraph); or

''(H) any material or product returned from a dispenser or distributor to the manufacturer for credit, evaluation, or possible reuse.

''(5) The term 'compliance' means a pattern or practice of adhering to and satisfying standards and requirements promulgated by the Federal or a State government for the purpose of preventing significant harm to human health and the environment. Actions undertaken in accordance with compliance schedules for remediation established by Federal or State enforcement authorities shall be considered compliance for purposes of this section.

''(6) The terms 'specifically authorized' and 'specifically authorizes' refer to an explicit authorization, contained in a host community agreement or permit, to import waste from outside the State. Such authorization may include a reference to a fixed radius surrounding the landfill or incinerator that includes an area outside the State or a reference to any place of origin, reference to specific places outside the State, or use of such phrases as 'regardless of origin' or 'outside the State'. The language for such authorization may vary as long as it clearly and affirmatively states the approval or consent of the affected local government or State for receipt of municipal solid waste from sources outside the State.

''(g) IMPLEMENTATION AND ENFORCEMENT.—Any State may adopt such laws and regulations, not inconsistent with this section, as are necessary to implement and enforce this section, including provisions for penalties.''.

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

''Sec. 4011. Interstate transportation of municipal solid waste.''.

(2) NEEDS DETERMINATION.—The Governor of a State may accept, deny or modify an application for a municipal solid waste management facility permit if—

(A) it is done in a manner that is not inconsistent with the provisions of this section;

(B) a State law enacted in 1990 and a regulation adopted by the governor in 1991 specifically requires the permit applicant to demonstrate that there is a local or regional need within the State for the facility; and

(C) the permit applicant fails to demonstrate that there is a local or regional need within the State for the facility.

(b) FLOW CONTROL.—

(1) STATE AND LOCAL GOVERNMENT CONTROL OF MOVEMENT OF MUNICIPAL SOLID WASTE AND RECYCLABLE MATERIAL.—Subtitle D of the Solid Waste Disposal Act (42 U.S.C. 6941 et seq.), as amended by subsection (a)(1)(A), is amended by adding after section 4011 the following new section:

''SEC. 4012. STATE AND LOCAL GOVERNMENT CONTROL OF MOVEMENT OF MUNICIPAL SOLID WASTE AND RECYCLABLE MATERIAL.

''(a) DEFINITIONS.—In this section:

''(1) DESIGNATE; DESIGNATION.—The terms 'designate' and 'designation' refer to an authorization by a State, political subdivision, or public service authority, and the act of a State, political subdivision, or public service authority in requiring or contractually committing, that all or any portion of the municipal solid waste or recyclable material that is generated within the boundaries of the State, political subdivision, or public service authority be delivered to waste management facilities or facilities for recyclable material or a public service authority identified by the State, political subdivision, or public service authority.

''(2) FLOW CONTROL AUTHORITY.—The term 'flow control authority' means the authority to control the movement of municipal solid waste or voluntarily relinquished recyclable material and direct such solid waste or voluntarily relinquished recyclable material to a designated waste management facility or facility for recyclable material.

''(3) MUNICIPAL SOLID WASTE.—The term 'municipal solid waste' means—

''(A) solid waste generated by the general public or from a residential, commercial, institutional, or industrial source, consisting of paper, wood, yard waste, plastics, leather, rubber, and other combustible material and noncombustible material such as metal and glass, including residue remaining after recyclable material has been separated from waste destined for disposal, and including waste material removed from a septic tank, septage pit, or cesspool (other than from portable toilets); but

''(B) does not include—

''(i) waste identified or listed as a hazardous waste under section 3001 of this Act or waste regulated under the Toxic Substances Control Act (15 U.S.C. 2601 et seq.);

''(ii) waste, including contaminated soil and debris, resulting from a response action taken

under section 104 or 106 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9604, 9606) or any corrective action taken under this Act;

''(iii) medical waste listed in section 11002;

''(iv) industrial waste generated by manufacturing or industrial processes, including waste generated during scrap processing and scrap recycling;

''(v) recyclable material; or

''(vi) sludge.

''(4) PUBLIC SERVICE AUTHORITY.—The term 'public service authority' means—

''(A) an authority or authorities created pursuant to State legislation to provide individually or in combination solid waste management services to political subdivisions;

''(B) other body created pursuant to State law; or

''(C) an authority that was issued a certificate of incorporation by a State corporation commission established by a State constitution.

''(5) PUT OR PAY AGREEMENT.—(A) The term 'put or pay agreement' means an agreement that obligates or otherwise requires a State or political subdivision to—

''(i) deliver a minimum quantity of municipal solid waste to a waste management facility; and

''(ii) pay for that minimum quantity of municipal solid waste even if the stated minimum quantity of municipal solid waste is not delivered within a required period of time.

''(B) For purposes of the authority conferred by subsections (b) and (c), the term 'legally binding provision of the State or political subdivision' includes a put or pay agreement that designates waste to a waste management facility that was in operation on or before December 31, 1988 and that requires an aggregate tonnage to be delivered to the facility during each operating year by the political subdivisions which have entered put or pay agreements designating that waste management facility.

''(C) The entering into of a put or pay agreement shall be considered to be a designation (as defined in subsection (a)(1)) for all purposes of this title.

''(6) RECYCLABLE MATERIAL.—The term 'recyclable material' means material that has been separated from waste otherwise destined for disposal (at the source of the waste or at a processing facility) or has been managed separately from waste destined for disposal, for the purpose of recycling, reclamation, composting of organic material such as food and yard waste, or reuse (other than for the purpose of incineration).

''(7) WASTE MANAGEMENT FACILITY.—The term 'waste management facility' means a facility that collects, separates, stores, transports, transfers, treats, processes, combusts, or disposes of municipal solid waste.

''(b) AUTHORITY.—

''(1) IN GENERAL.—Each State, political subdivision of a State, and public service authority may exercise flow control authority for municipal solid waste and for recyclable material voluntarily relinquished by the owner or generator of the material that is generated within its jurisdiction by directing the municipal solid waste or recyclable material to a waste management facility or facility for recyclable material, if such flow control authority—

''(A)(i) had been exercised prior to May 15, 1994, and was being implemented on May 15, 1994, pursuant to a law, ordinance, regulation, or other legally binding provision of the State or political subdivision; or

''(ii) had been exercised prior to May 15, 1994, but implementation of such law, ordinance, regulation, or other legally binding provision of the State or political subdivision was prevented by an injunction, temporary restraining order, or other court action, or was suspended by the voluntary decision of the State or political subdivision because of the existence of such court action;

''(B) has been implemented by designating before May 15, 1994, the particular waste management facilities or public service authority to which the municipal solid waste or recyclable material is to be delivered, which facilities were in operation as of May 15, 1994, or were in operation prior to May 15, 1994 and were temporarily inoperative on May 15, 1994.

''(2) LIMITATION.—The authority of this section extends only to the specific classes or categories of municipal solid waste to which flow control authority requiring a movement to a waste management facility was actually applied on or before May 15, 1994 (or, in the case of a State, political subdivision, or public service authority that qualifies under subsection (c), to the specific classes or categories of municipal solid waste for which the State, political subdivision, or public service authority prior to May 15, 1994, had committed to the designation of a waste management facility).

''(3) LACK OF CLEAR IDENTIFICATION.—With regard to facilities granted flow control authority under subsection (c), if the specific classes or categories of municipal solid waste are not clearly identified, the authority of this section shall apply only to municipal solid waste generated by households.

''(4) DURATION OF AUTHORITY.—With respect to each designated waste management facility, the authority of this section shall be effective until the later of—

''(A) the end of the remaining life of a contract between the State, political subdivision, or public service authority and any other person regarding the movement or delivery of municipal solid waste or voluntarily relinquished recyclable material to a designated facility (as in effect May 15, 1994);

''(B) completion of the schedule for payment of the capital costs of the facility concerned (as in effect May 15, 1994); or

''(C) the end of the remaining useful life of the facility (as in existence on the date of enactment of this section), as that remaining life may be extended by—

''(i) retrofitting of equipment or the making of other significant modifications to meet applicable environmental requirements or safety requirements;

''(ii) routine repair or scheduled replacement of equipment or components that does not add to the capacity of a waste management facility; or

''(iii) expansion of the facility on land that is—

''(I) legally or equitably owned, or under option to purchase or lease, by the owner or operator of the facility; and

''(II) covered by the permit for the facility (as in effect May 15, 1994).

''(5) ADDITIONAL AUTHORITY.—

''(A) APPLICATION OF PARAGRAPH.—This paragraph applies to a State or political subdivision of a State that, on or before January 1, 1984—

''(i) adopted regulations under State law that required the transportation to, and management or disposal at, waste management facilities in the State, of—

''(I) all solid waste from residential, commercial, institutional, or industrial sources (as defined under State law); and

''(II) recyclable material voluntarily relinquished by the owner or generator of the recyclable material; and

''(ii) as of January 1, 1984, had implemented those regulations in the case of every political subdivision of the State.

''(B) AUTHORITY.—Notwithstanding anything to the contrary in this section (including subsection (m)), a State or political subdivision of a State described in subparagraph (A) may continue to exercise flow control authority (including designation of waste management facilities in the State that meet the requirements of subsection (c)) for all classes and categories of solid waste that were subject to flow control on January 1, 1984.

''(6) FLOW CONTROL ORDINANCE.—Notwithstanding anything to the contrary in this section, but subject to subsection (m), any political subdivision which adopted a flow control ordinance in November 1991, and designated facilities to receive municipal solid waste prior to April 1, 1992, may exercise flow control authority until the end of the remaining life of all contracts between the political subdivision and any other persons regarding the movement or delivery of municipal solid waste or voluntarily relinquished recyclable material to a designated facility (as in effect May 15, 1994). Such authority shall extend only to the specific classes or categories of municipal solid waste to which flow control authority was actually applied on or before May 15, 1994. The authority under this subsection shall be exercised in accordance with section 4012(b)(4).

''(c) COMMITMENT TO CONSTRUCTION.—

''(1) IN GENERAL.—Notwithstanding subsection (b)(1) (A) and (B), any political subdivision of a State may exercise flow control authority under subsection (b), if—

''(A)(i) the law, ordinance, regulation, or other legally binding provision specifically provides for flow control authority for municipal solid waste generated within its boundaries; and

''(ii) such authority was exercised prior to May 15, 1995, and was being implemented on May 15, 1994.

''(B) prior to May 15, 1994, the political subdivision committed to the designation of the particular waste management facilities or public service authority to which municipal solid waste is to be transported or at which municipal solid waste is to be disposed of under that law, ordinance, regulation, plan, or legally binding provision.

''(2) FACTORS DEMONSTRATING COMMITMENT.—A commitment to the designation of waste management facilities or public service authority is demonstrated by 1 or more of the following factors:

''(A) CONSTRUCTION PERMITS.—All permits required for the substantial construction of the facility were obtained prior to May 15, 1994.

''(B) CONTRACTS.—All contracts for the substantial construction of the facility were in effect prior to May 15, 1994.

''(C) REVENUE BONDS.—Prior to May 15, 1994, revenue bonds were presented for sale to specifically provide revenue for the construction of the facility.

''(D) CONSTRUCTION AND OPERATING PERMITS.—The State or political subdivision submitted to the appropriate regulatory agency or agencies, on or before May 15, 1994, substantially complete permit applications for the construction and operation of the facility.

''(d) FORMATION OF SOLID WASTE MANAGEMENT DISTRICT TO PURCHASE AND OPERATE EXISTING FACILITY.—Notwithstanding subsection (b)(1) (A) and (B), a solid waste management district that was formed by a number of political subdivisions for the purpose of purchasing and operating a facility owned by 1 of the political subdivisions may exercise flow control authority under subsection (b) if—

''(1) the facility was fully licensed and in operation prior to May 15, 1994;

''(2) prior to April 1, 1994, substantial negotiations and preparation of documents for the formation of the district and purchase of the facility were completed;

''(3) prior to May 15, 1994, at least 80 percent of the political subdivisions that were to participate in the solid waste management district had adopted ordinances committing the political subdivisions to participation and the remaining political subdivisions adopted such ordinances within 2 months after that date; and

''(3) the financing was completed, the acquisition was made, and the facility was placed under operation by the solid waste management district by September 21, 1994.

''(e) CONSTRUCTED AND OPERATED.—A political subdivision of a State may exercise flow control authority for municipal solid waste and for recyclable material voluntarily relinquished by

the owner or generator of the material that is generated within its jurisdiction if—

''(1) prior to May 15, 1994, the political subdivision—

''(A) contracted with a public service authority or with its operator to deliver or cause to be delivered to the public service authority substantially all of the disposable municipal solid waste that is generated or collected by or is within or under the control of the political subdivision, in order to support revenue bonds issued by and in the name of the public service authority or on its behalf by a State entity for waste management facilities; or

''(B) entered into contracts with a public service authority or its operator to deliver or cause to be delivered to the public service authority substantially all of the disposable municipal solid waste that is generated or collected by or within the control of the political subdivision, which imposed flow control pursuant to a law, ordinance, regulation, or other legally binding provision and where outstanding revenue bonds were issued in the name of public service authorities for waste management facilities; and

''(2) prior to May 15, 1994, the public service authority—

''(A) issued the revenue bonds or had issued on its behalf by a State entity for the construction of municipal solid waste facilities to which the political subdivision's municipal solid waste is transferred or disposed; and

''(B) commenced operation of the facilities.

The authority under this subsection shall be exercised in accordance with section 4012(b)(4).

''(f) STATE-MANDATED DISPOSAL SERVICES.—A political subdivision of a State may exercise flow control authority for municipal solid waste and for recyclable material voluntarily relinquished by the owner or generator of the material that is generated within its jurisdiction if, prior to May 15, 1994, the political subdivision—

''(1) was responsible under State law for providing for the operation of solid waste facilities to serve the disposal needs of all incorporated and unincorporated areas of the county;

''(2) is required to initiate a recyclable materials recycling program in order to meet a municipal solid waste reduction goal of at least 30 percent;

''(3) has been authorized by State statute to exercise flow control authority and had implemented the authority through the adoption or execution of a law, ordinance, regulation, contract, or other legally binding provision;

''(4) had incurred, or caused a public service authority to incur, significant financial expenditures to comply with State law and to repay outstanding bonds that were issued specifically for the construction of solid waste management facilities to which the political subdivision's waste is to be delivered; and

''(5) the authority under this subsection shall be exercised in accordance with section 4012(b)(4).

''(g) STATE SOLID WASTE DISTRICT AUTHORITY.—A solid waste district or a political subdivision of a State may exercise flow control authority for municipal solid waste and for recyclable material voluntarily relinquished by the owner or generator of the material that is generated within its jurisdiction if—

''(1) the solid waste district, political subdivision or municipality within said district is currently required to initiate a recyclable materials recycling program in order to meet a municipal solid waste reduction goal of at least 30 percent by the year 2005, and uses revenues generated by the exercise of flow control authority strictly to implement programs to manage municipal solid waste, other than development of incineration; and

''(2) prior to May 15, 1994, the solid waste district, political subdivision or municipality within said district—

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

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

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

''(h) STATE-AUTHORIZED SERVICES AND LOCAL PLAN ADOPTION.—A political subdivision of a State may exercise flow control authority for municipal solid waste and for recyclable material voluntarily relinquished by the owner or generator of the material that is generated within its jurisdiction if, prior to May 15, 1994, the political subdivision—

''(1) had been authorized by State statute which specifically named the political subdivision to exercise flow control authority and had implemented the authority through a law, ordinance, regulation, contract, or other legally binding provision; and

''(2) had adopted a local solid waste management plan pursuant to State statute and was required by State statute to adopt such plan in order to submit a complete permit application to construct a new solid waste management facility proposed in such plan; and

''(3) had presented for sale a revenue or general obligation bond to provide for the site selection, permitting, or acquisition for construction of new facilities identified and proposed in its local solid waste management plan; and

''(4) includes a municipality or municipalities required by State law to adopt a local law or ordinance to require that solid waste which has been left for collection shall be separated into recyclable, reusable or other components for which economic markets exist; and

''(5) is in a State that has aggressively pursued closure of substandard municipal landfills, both by regulatory action and under statute designed to protect deep flow recharge areas in counties where potable water supplies are derived from sole source aquifers.

''(i) RETAINED AUTHORITY.—

''(1) REQUEST.—On the request of a generator of municipal solid waste affected by this section, a State or political subdivision may authorize the diversion of all or a portion of the solid waste generated by the generator making the request to an alternative solid waste treatment or disposal facility, if the purpose of the request is to provide a higher level of protection for human health and the environment or reduce potential future liability of the generator under Federal or State law for the management of such waste, unless the State or political subdivision determines that the facility to which the municipal solid waste is proposed to be diverted does not provide a higher level of protection for human health and the environment or does not reduce the potential future liability of the generator under Federal or State law for the management of such waste.

''(2) CONTENTS.—A request under paragraph (1) shall include information on the environmental suitability of the proposed alternative treatment or disposal facility and method, compared to that of the designated facility and method.

''(j) LIMITATIONS ON REVENUE.—A State or political subdivision may exercise flow control authority under subsection (b), (c), (d), or (e) only if the State or political subdivision certifies that the use of any of its revenues derived from the exercise of that authority will be used for solid waste management services or related landfill reclamation.

''(k) REASONABLE REGULATION OF COMMERCE.—A law, ordinance, regulation, or other legally binding provision or official act of a State or political subdivision, as described in subsection (b), (c), (d), or (e), that implements flow control authority in compliance with this section shall be considered to be a reasonable regulation of commerce retroactive to its date of enactment or effective date and shall not be considered to be an undue burden on or otherwise considered as impairing, restraining, or discriminating against interstate commerce.

''(l) EFFECT ON EXISTING LAWS AND CONTRACTS.—

''(1) ENVIRONMENTAL LAWS.—Nothing in this section shall be construed to have any effect on any other law relating to the protection of human health and the environment or the management of municipal solid waste or recyclable material.

''(2) STATE LAW.—Nothing in this section shall be construed to authorize a political subdivision of a State to exercise the flow control authority granted by this section in a manner that is inconsistent with State law.

''(3) OWNERSHIP OF RECYCLABLE MATERIAL.—Nothing in this section—

''(A) authorizes a State or political subdivision of a State to require a generator or owner of recyclable material to transfer recyclable material to the State or political subdivision; or

''(B) prohibits a generator or owner of recyclable material from selling, purchasing, accepting, conveying, or transporting recyclable material for the purpose of transformation or remanufacture into usable or marketable material, unless the generator or owner voluntarily made the recyclable material available to the State or political subdivision and relinquished any right to, or ownership of, the recyclable material.

''(m) REPEAL.—(1) Notwithstanding any provision of this title, authority to flow control by directing municipal solid waste or recyclable materials to a waste management facility shall terminate on the date that is 30 years after the date of enactment of this Act.

''(2) This section and the item relating to this section in the table of contents for subtitle D of the Solid Waste Disposal Act are repealed effective as of the date that is 30 years after the date of enactment of this Act.

''(n) TITLE NOT APPLICABLE TO LISTED FACILITIES.—Notwithstanding any other provision of this title, the authority to exercise flow control shall not apply to any facility that—

''(1) on the date of enactment of this Act, is listed on the National Priorities List under the Comprehensive Environmental, Response, Compensation and Liability Act (42 U.S.C. 9601 et seq.); or

''(2) as of May 15, 1994, was the subject of a pending proposal by the Administrator of the Environmental Protection Agency to be listed on the National Priorities List.''.

(2) TABLE OF CONTENTS AMENDMENT.—The table of contents for subtitle D in section 1001 of the Solid Waste Disposal Act (42 U.S.C. prec. 6901), as amended by subsection (a)(1)(B), is amended by adding after the item relating to section 4011 the following new item:

''Sec. 4012. State and local government control of movement of municipal solid waste and recyclable material.''.

(c) GROUND WATER MONITORING.—

(1) AMENDMENT OF SOLID WASTE DISPOSAL ACT.—Section 4010(c) of the Solid Waste Disposal Act (42 U.S.C. 6949a(c)) is amended—

(A) by striking ''CRITERIA.—Not later'' and inserting the following: ''CRITERIA.—

''(1) IN GENERAL.—Not later''; and

(B) by adding at the end the following new paragraph:

''(2) ADDITIONAL REVISIONS.—Subject to paragraph (2), the requirements of the criteria described in paragraph (1) relating to ground water monitoring shall not apply to an owner or operator of a new municipal solid waste landfill unit, an existing municipal solid waste landfill unit, or a lateral expansion of a municipal solid

waste landfill unit, that disposes of less than 20 tons of municipal solid waste daily, based on an annual average, if—

''(A) there is no evidence of ground water contamination from the municipal solid waste landfill unit or expansion; and

''(B) the municipal solid waste landfill unit or expansion serves—

''(i) a community that experiences an annual interruption of at least 3 consecutive months of surface transportation that prevents access to a regional waste management facility; or

''(ii) a community that has no practicable waste management alternative and the landfill unit is located in an area that annually receives less than or equal to 25 inches of precipitation.

''(3) PROTECTION OF GROUND WATER RESOURCES.—

''(A) MONITORING REQUIREMENT.—A State may require ground water monitoring of a solid waste landfill unit that would otherwise be exempt under paragraph (2) if necessary to protect ground water resources and ensure compliance with a State ground water protection plan, where applicable.

''(B) METHODS.—If a State requires ground water monitoring of a solid waste landfill unit under subparagraph (A), the State may allow the use of a method other than the use of ground water monitoring wells to detect a release of contamination from the unit.

''(C) CORRECTIVE ACTION.—If a State finds a release from a solid waste landfill unit, the State shall require corrective action as appropriate.

''(4) ALASKA NATIVE VILLAGES.—Upon certification by the Governor of the State of Alaska that application of the requirements of the criteria described in paragraph (1) to a solid waste landfill unit of a Native village (as defined in section 3 of the Alaska Native Claims Settlement Act (16 U.S.C. 1602)) or unit that is located in or near a small, remote Alaska village would be infeasible, or would not be cost-effective, or is otherwise inappropriate because of the remote location of the unit, the State may exempt the unit from some or all of those requirements. This subsection shall apply only to solid waste landfill units that dispose of less than 20 tons of municipal solid waste daily, based on an annual average.

''(5) NO-MIGRATION EXEMPTION.—

''(A) IN GENERAL.—Ground water monitoring requirements may be suspended by the Director of an approved State for a landfill operator if the operator demonstrates that there is no potential for migration of hazardous constituents from the unit to the uppermost aquifer during the active life of the unit and the post-closure care period.

''(B) CERTIFICATION.—A demonstration under subparagraph (A) shall—

''(i) be certified by a qualified ground-water scientist and approved by the Director of an approved State.

''(C) GUIDANCE.—Not later than 6 months after the date of enactment of this paragraph, the Administrator shall issue a guidance document to facilitate small community use of the no migration exemption under this paragraph.

''(6) FURTHER REVISIONS OF GUIDELINES AND CRITERIA.—Not later than April 9, 1997, the Administrator shall promulgate revisions to the guidelines and criteria promulgated under this subchapter to allow States to promulgate alternate design, operating, landfill gas monitoring, financial assurance, and closure requirements for landfills which receive 20 tons or less of municipal solid waste per day based on an annual average: Provided That such alternate requirements are sufficient to protect human health and the environment.''.

(2) REINSTATEMENT OF REGULATORY EXEMPTION.—It is the intent of section 4010(c)(2) of the Solid Waste Disposal Act, as added by paragraph (1), to immediately reinstate subpart E of part 258 of title 40, Code of Federal Regulations, as added by the final rule published at 56 Federal Register 50798 on October 9, 1991.

(d) STATE OR REGIONAL SOLID WASTE PLANS.—

(1) FINDING.—Section 1002(a) of the Solid Waste Disposal Act (42 U.S.C. 6901(a)) is amended—

(A) by striking the period at the end of paragraph (4) and inserting ''; and''; and

(B) by adding at the end the following:

''(5) that the Nation's improved standard of living has resulted in an increase in the amount of solid waste generated per capita, and the Nation has not given adequate consideration to solid waste reduction strategies.''.

(2) OBJECTIVE OF SOLID WASTE DISPOSAL ACT.—Section 1003(a) of the Solid Waste Disposal Act (42 U.S.C. 6902(a)) is amended—

(A) by striking ''and'' at the end of paragraph (10);

(B) by striking the period at the end of paragraph (11) and inserting ''; and''; and

(C) by adding at the end the following:

''(12) promoting local and regional planning for—

''(A) effective solid waste collection and disposal; and

''(B) reducing the amount of solid waste generated per capita through the use of solid waste reduction strategies.''.

(3) NATIONAL POLICY.—Section 1003(b) of the Solid Waste Disposal Act (42 U.S.C. 6902(b)) is amended by inserting ''solid waste and'' after ''generation of''.

(4) OBJECTIVE OF SUBTITLE D OF SOLID WASTE DISPOSAL ACT.—Section 4001 of the Solid Waste Disposal Act (42 U.S.C. 6941) is amended by inserting ''promote local and regional planning for effective solid waste collection and disposal and for reducing the amount of solid waste generated per capita through the use of solid waste reduction strategies, and'' after ''objectives of this subtitle are to''.

(5) DISCRETIONARY STATE PLAN PROVISIONS.—Section 4003 of the Solid Waste Disposal Act (42 U.S.C. 6943) is amended by adding at the end the following:

''(e) DISCRETIONARY PLAN PROVISIONS RELATING TO SOLID WASTE REDUCTION GOALS, LOCAL AND REGIONAL PLANS, AND ISSUANCE OF SOLID WASTE MANAGEMENT PERMITS.—Except as provided in section 4011(a)(4), a State plan submitted under this subtitle may include, at the option of the State, provisions for—

''(1) establishment of a State per capita solid waste reduction goal, consistent with the goals and objectives of this subtitle; and

''(2) establishment of a program that ensures that local and regional plans are consistent with State plans and are developed in accordance with sections 4004, 4005, and 4006.''.

(6) PROCEDURE FOR DEVELOPMENT AND IMPLEMENTATION OF STATE PLANS.—Section 4006(b) of the Solid Waste Disposal Act (42 U.S.C. 6946(b)) is amended by inserting ''and discretionary plan provisions'' after ''minimum requirements''.

(e) GENERAL PROVISIONS.—

(1) BORDER STUDIES.—

(A) DEFINITIONS.—In this paragraph:

(i) ADMINISTRATOR.—The term ''Administrator'' means the Administrator of the Environmental Protection Agency.

(ii) MAQUILADORA.—The term ''maquiladora'' means an industry located in Mexico along the border between the United States and Mexico.

(iii) SOLID WASTE.—The term ''solid waste'' has the meaning provided the term under section 1004(27) of the Solid Waste Disposal Act (42 U.S.C. 6903(27)).

(B) IN GENERAL.—

(i) STUDY OF SOLID WASTE MANAGEMENT ISSUES ASSOCIATED WITH NORTH AMERICAN FREE TRADE AGREEMENT.—As soon as practicable after the date of enactment of this Act, the Administrator is authorized to conduct a study of solid waste management issues associated with increased border use resulting from the implementation of the North American Free Trade Agreement.

(ii) STUDY OF SOLID WASTE MANAGEMENT ISSUES ASSOCIATED WITH UNITED STATES-CANADA FREE-TRADE AGREEMENT.—As soon as practicable after the date of enactment of this Act, the Administrator may conduct a similar study focused on border traffic of solid waste resulting from the implementation of the United States-Canada Free-Trade Agreement, with respect to the border region between the United States and Canada.

(C) CONTENTS OF STUDY.—A study conducted under this paragraph shall provide for the following:

(i) A study of planning for solid waste treatment, storage, and disposal capacity (including additional landfill capacity) that would be necessary to accommodate the generation of additional household, commercial, and industrial wastes by an increased population along the border involved.

(ii) A study of the relative impact on border communities of a regional siting of solid waste storage and disposal facilities.

(iii) In the case of the study described in subparagraph (B)(i), research concerning methods of tracking of the transportation of—

(I) materials from the United States to maquiladoras; and

(II) waste from maquiladoras to a final destination.

(iv) In the case of the study described in subparagraph (B)(i), a determination of the need for solid waste materials safety training for workers in Mexico and the United States within the 100-mile zone specified in the First Stage Implementation Plan Report for 1992–1994 of the Integrated Environmental Plan for the Mexico-United States Border, issued by the Administrator in February 1992.

(v) A review of the adequacy of existing emergency response networks in the border region involved, including the adequacy of training, equipment, and personnel.

(vi) An analysis of solid waste management practices in the border region involved, including an examination of methods for promoting source reduction, recycling, and other alternatives to landfills.

(D) SOURCES OF INFORMATION.—In conducting a study under this paragraph, the Administrator shall, to the extent allowable by law, solicit, collect, and use the following information:

(i) A demographic profile of border lands based on census data prepared by the Bureau of the Census of the Department of Commerce and, in the case of the study described in subparagraph (B)(i), census data prepared by the Government of Mexico.

(ii) In the case of the study described in subparagraph (B)(i), information from the United States Customs Service of the Department of the Treasury concerning solid waste transported across the border between the United States and Mexico, and the method of transportation of the waste.

(iii) In the case of the study described in subparagraph (B)(i), information concerning the type and volume of materials used in maquiladoras.

(iv)(I) Immigration data prepared by the Immigration and Naturalization Service of the Department of Justice.

(II) In the case of the study described in subparagraph (B)(i), immigration data prepared by the Government of Mexico.

(v) Information relating to the infrastructure of border land, including an accounting of the number of landfills, wastewater treatment systems, and solid waste treatment, storage, and disposal facilities.

(vi) A listing of each site in the border region involved where solid waste is treated, stored, or disposed of.

(vii) In the case of the study described in subparagraph (B)(i), a profile of the industries in the region of the border between the United States and Mexico.

(E) CONSULTATION AND COOPERATION.—In carrying out this paragraph, the Administrator shall consult with the following entities in reviewing study activities:

(i) With respect to reviewing the study described in subparagraph (B)(i), States and political subdivisions of States (including municipalities and counties) in the region of the border between the United States and Mexico.

(ii) The heads of other Federal agencies (including the Secretary of the Interior, the Secretary of Housing, the Secretary of Health and Human Services, the Secretary of Transportation, and the Secretary of Commerce) and with respect to reviewing the study described in subparagraph (B)(i), equivalent officials of the Government of Mexico.

(F) REPORTS TO CONGRESS.—On completion of the studies under this paragraph, the Administrator shall, not later than 2 years after the date of enactment of this Act, submit to the appropriate committees of Congress reports that summarize the findings of the studies and propose methods by which solid waste border traffic may be tracked, from source to destination, on an annual basis.

(G) BORDER STUDY DELAY.—The conduct of the study described in subparagraph (B)(ii) shall not delay or otherwise affect completion of the study described in subparagraph (B)(i).

(H) FUNDING.—If any funding needed to conduct the studies required by this paragraph is not otherwise available, the president may transfer to the administrator, for use in conducting the studies, any funds that have been appropriated to the president under section 533 of the North American Free Trade Agreement Implementation Act (19 U.S.C. 3473) that are in excess of the amount needed to carry out that section. States that wish to participate in study will be asked to contribute to the costs of the study. The terms of the cost share shall be negotiated between the Environmental Protection Agency and the State.''.

(2) STUDY OF INTERSTATE HAZARDOUS WASTE TRANSPORT.—

(A) DEFINITION OF HAZARDOUS WASTE.—In this paragraph, the term ''hazardous waste'' has the meaning provided in section 1004 of the Solid Waste Disposal Act (42 U.S.C. 6903).

(B) STUDY.—not later than 3 years after the date of enactment of this act, the administrator of the environmental protection agency shall conduct a study, and report to congress on the results of the study, to determine—

(i) the quantity of hazardous waste that is being transported across state lines; and

(ii) the ultimate disposition of the transported waste.

(3) STUDY OF INTERSTATE SLUDGE TRANSPORT.—

(A) DEFINITIONS.—In this paragraph:

(i) SEWAGE SLUDGE.—The term ''sewage sludge''—

(I) means solid, semisolid, or liquid residue generated during the treatment of domestic sewage in a treatment works; and

(II) includes—

(i) domestic septage;

(ii) scum or a solid removed in a primary, secondary, or advanced wastewater treatment process; and

(iii) material derived from sewage sludge (as otherwise defined in this clause); but

(III) does not include—

(i) ash generated during the firing of sewage sludge (as otherwise defined in this clause) in a sewage sludge incinerator; or

(ii) grit or screenings generated during preliminary treatment of domestic sewage in a treatment works.

(ii) SLUDGE.—The term ''sludge'' has the meaning provided in section 1004 of the Solid Waste Disposal Act (42 U.S.C. 6903).

(B) STUDY.—Not later than 3 years after the date of enactment of this act, the administrator of the environmental protection agency shall conduct a study, and report to congress on the results of the study, to determine—

(i) the quantity of sludge (including sewage sludge) that is being transported across state lines; and

(ii) the ultimate disposition of the transported sludge.

SEC. 510. SENSE OF SENATE REGARDING UNITED STATES SEMICONDUCTOR TRADE AGREEMENT.

(a) FINDINGS.—

(1) The United States-Japan Semiconductor Trade Agreement is set to expire on July 31, 1996;

(2) The Governments of the United States and Japan are currently engaged in negotiations over the terms of a new United States-Japan agreement on semiconductors;

(3) The President of the United States and the Prime Minister of Japan agreed at the G–7 Summit in June that their two governments should conclude a mutually acceptable outcome of the semiconductor dispute by July 31, 1996, and that there should be a continuing role for the two governments in the new agreement;

(4) The current United States-Japan Semiconductor Trade Agreement has put in place both government-to-government and industry-to-industry mechanisms which have played a vital role in allowing cooperation to replace conflict in this important high technology sector such as by providing for joint calculation of foreign market share in Japan, deterrence of dumping, and promotion of industrial cooperation in the design-in of foreign semiconductor devices;

(5) Despite the increased foreign share of the Japanese semiconductor market since 1986, a gap still remains between the share United States and other foreign semiconductor makers are able to capture in the world market outside of Japan through their competitiveness and the sales of these suppliers in the Japanese market, and that gap is consistent across the full range of semiconductor products as well as a full range of end-use applications;

(6) The competitiveness and health of the United States semiconductor industry is of critical importance to the United States' overall economic well-being as well as the nation's high technology defense capabilities;

(7) The economic interests of both the United States and Japan are best served by well-functioning, open markets and deterrence of dumping in all sectors, including semiconductors;

(8) The Government of Japan continues to oppose an agreement that (A) ensures continued calculation of foreign market share in Japan according to the formula set forth in the current agreement, and (B) provides for continuation of current measures to deter renewed dumping of semiconductors in the United States and in the third country markets; and

(9) The United States Senate on June 19, 1996, unanimously adopted a sense of the Senate resolution that the President should take all necessary and appropriate actions to ensure the continuation of a government-to-government United States-Japan semiconductor trade agreement before the current agreement expires on July 31, 1996.

(b) SENSE OF SENATE.—It is the sense of the Senate that if a new United States-Japan Semiconductor Agreement is not concluded by July 31, 1996, that (1) ensures continued calculation of foreign market share in Japan according to the formula set forth in the current agreement, and (2) provides for continuation of current measures to deter renewed dumping of semiconductors in the United States and in third country markets, the President shall—

(A) Direct the Office of the United States Trade Representative and the Department of Commerce to establish a system to provide for unilateral United States Government calculation and publication of the foreign share of the Japanese semiconductor market, according to the formula set forth in the current agreement;

(B) Report to the Congress on a quarterly basis regarding the progress, or lack thereof, in increasing foreign market access to the Japanese semiconductor market; and

(C) Take all necessary and appropriate actions to ensure that all United States trade laws with respect to foreign market access and injurious dumping are expeditiously and vigorously enforced with respect to U.S.-Japan semiconductor trade, as appropriate.

This Act may be cited as the ''Energy and Water Development Appropriations Act, 1997''.

Mr. DOMENICI. Mr. President, I move to reconsider the vote by which the bill was passed, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DOMENICI. Mr. President, I ask unanimous consent that S. 1959, the fiscal year 1997 energy and water development appropriations bill, be indefinitely postponed.

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

Mr. DOMENICI. Mr. President, I move that the Senate insist on its amendments, request a conference with the House on the disagreeing votes of the two Houses and that the Chair be authorized to appoint conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer (Mr. ASHCROFT) appointed Mr. DOMENICI, Mr. HATFIELD, Mr. COCHRAN, Mr. GORTON, Mr. MCCONNELL, Mr. BENNETT, Mr. BURNS, Mr. JOHNSTON, Mr. BYRD, Mr. HOLLINGS, Mr. REID, Mr. KERREY and Mrs. MURRAY conferees on the part of the Senate.

Mr. DOMENICI. Mr. President, I thank the combined staff—the Republican staff and the Democratic staff—for the marvelous job they did. I, most of all, thank all the Senators for being as cooperative as they were. This is a bill that is not singular in purpose but has an awful lot of facets to it. We were able in 2 days to complete it, and that is because we got great cooperation.

I yield the floor.

RECESS

The PRESIDING OFFICER. Under the previous order, the Senate will now stand in recess until the hour of 2:15 p.m. today.

Thereupon, at 12:42 p.m., the Senate recessed until 2:15 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. SMITH).

LEGISLATIVE BRANCH APPROPRIATIONS ACT, 1997

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of H.R. 3754, which the clerk will report.

The legislative clerk read as follows:

A bill (H.R. 3754) making appropriations for the legislative branch for the fiscal year ending September 30, 1997, and for other purposes.

The Senate resumed the consideration of the bill.

Pending:

Chafee amendment No. 5119, to provide for a limitation on the exclusion copyrights of literary works reproduced or distributed in specialized formats for use by blind or disabled persons.