

deterioration of our federal highway system. A mechanism must be developed to ensure that, even while we strive to eliminate our annual budget deficit, we begin to stem the tide of federal disinvestment in our transportation infrastructure.

Toward that end, I look forward to working with Chairman DOMENICI of the Budget Committee and its Ranking Member, Senator LAUTENBERG, along with the Chairmen and Ranking Members of the Environment and Public Works Committee and the Transportation Appropriations Subcommittee to seek a way to ensure substantially increased authorizations and obligational authority for our federal highway responsibilities. We cannot be responsible stewards of federal tax dollars and, at the same time, pass a steadily deteriorating transportation infrastructure on to our children and grandchildren.

Now Mr. President, I did not seek to hold up consideration of H.R. 668 yesterday evening by proposing amendments to address our highway infrastructure needs. I recognized the urgency of renewing the aviation ticket tax. The Airport and Airways Trust Fund is on the verge of bankruptcy and, absent the renewal of the ticket tax, our nation's airport construction enterprise, as well as the procurement of critically needed air traffic control equipment, will be at risk. Indeed, airports are also a critical element of our transportation infrastructure. And, as in the case of highways, our airport infrastructure needs continue to grow while federal investment continues to fall precipitously. The current funding level for the Airport Improvement Program has fallen more than 30 percent in just the last five years. And the president's budget for the coming fiscal year asks us to cut the program an additional 32 percent. The last thing I wanted to do yesterday evening was endanger necessary investments in our aviation infrastructure in the hopes of addressing the needs of our highway infrastructure.

However, I rise today to state my intention and commitment to work with the Senate leadership as well as the leadership of all the relevant committees to ensure that we put policies in place this year to adequately address the need for increased highway investment. I invite all members to join me in this cause.

#### THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, Thursday, February 27, the federal debt stood at \$5,349,402,692,025.14.

One year ago, February 27, 1996, the federal debt stood at \$5,016,697,000,000.

Five years ago, February 27, 1992, the federal debt stood at \$3,823,779,000,000 which reflects a debt increase of more than \$1 trillion (\$1,525,623,692,025.14) during the past 5 years.

#### MEASURE PLACED ON THE CALENDAR

The following measure was read the second time and placed on the calendar:

S. 378. A bill to provide additional funding for the Committee on Governmental Affairs of the Senate.

#### EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-1232. A communication from the Congressional Review Coordinator of the Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule relative to a change in disease status, received on February 26, 1997; to the Committee on Agriculture, Nutrition, and Forestry.

EC-1233. A communication from the Chairman of the Surface Transportation Board, transmitting, pursuant to law, a rule entitled "Exemption of Freight Forwarders" received on February 26, 1997; to the Committee on Commerce, Science, and Transportation.

EC-1234. A communication from the Chairman of the U.S. Nuclear Regulatory Commission, transmitting, pursuant to law, the report on the nondisclosure of safeguards information for the period October 1 through December 31, 1996; to the Committee on Environment and Public Works.

EC-1235. A communication from the Chairman of the Advisory Committee On Reactor Safeguards, U.S. Nuclear Regulatory Commission, transmitting, pursuant to law, a report relative to the NRC's Safety Research Program; to the Committee on Environment and Public Works.

EC-1236. A communication from the Board Members of the Railroad Retirement Board, transmitting, pursuant to law, the annual report for calendar year 1996; to the Committee on the Judiciary.

EC-1237. A communication from the Acting General Counsel of the Department of Housing and Urban Development, transmitting, pursuant to law, a rule entitled "Indemnification of Department of Housing and Urban Development Employees (FR 4143) received on February 24, 1997; to the Committee on Banking, Housing, and Urban Affairs.

EC-1238. A communication from the Chairman of the Board of Governors of the Federal Reserve System, transmitting, pursuant to law, a report on monetary policy; to the Committee on Banking, Housing, and Urban Affairs.

EC-1239. A communication from the Director of the Federal Emergency Management Agency, transmitting, pursuant to law, the annual report on the system of internal accounting and financial controls in effect during fiscal year 1996; to the Committee on Governmental Affairs.

EC-1240. A communication from the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11-527 adopted by the Council on January 7, 1997; to the Committee on Governmental Affairs.

EC-1241. A communication from the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11-528 adopted by the Council on January 7, 1997; to the Committee on Governmental Affairs.

EC-1242. A communication from the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11-529

adopted by the Council on January 7, 1997; to the Committee on Governmental Affairs.

EC-1243. A communication from the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11-530 adopted by the Council on January 7, 1997; to the Committee on Governmental Affairs.

EC-1244. A communication from the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11-531 adopted by the Council on January 7, 1997; to the Committee on Governmental Affairs.

EC-1245. A communication from the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11-532 adopted by the Council on January 7, 1997; to the Committee on Governmental Affairs.

EC-1246. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, a report relative to the International Atomic Energy Agency; to the Committee on Foreign Relations.

EC-1247. A communication from the Senior Deputy Assistant Administrator, Bureau for Legislative and Public Affairs, U.S. Agency for International Development, transmitting, pursuant to law, a report relative to Egypt; to the Committee on Foreign Relations.

EC-1248. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, the report of the texts of international agreements, other than treaties, and background statements; to the Committee on Foreign Relations.

#### INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. AKAKA (for himself and Mr. INOUE):

S. 382. A bill to amend chapter 3 of title 28, United States Code, to provide for the appointment in each Federal judicial circuit Court of Appeals, of at least one resident of each State in such circuit, and for other purposes; to the Committee on the Judiciary.

By Mr. D'AMATO:

S. 383. A bill to require the Director of the Federal Emergency Management Agency to provide funds for compensation for expenses incurred by the State of New York, Nassau County and Suffolk County, New York, and New York City, New York, as a result of the crash of flight 800 of Trans World Airlines; to the Committee on Environment and Public Works.

By Mr. CONRAD:

S. 384. A bill to amend the Solid Waste Disposal Act to allow States to regulate the disposal of municipal solid waste generated outside the State; to the Committee on Environment and Public Works.

#### STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. AKAKA (for himself and Mr. INOUE):

S. 382. A bill to amend chapter 3 of title 28, United States Code, to provide for the appointment in each Federal judicial circuit court of appeals, of at least one resident of each State in such circuit, and for other purposes; to the Committee on the Judiciary.

THE JUDICIARY APPOINTMENTS ACT OF 1997

Mr. AKAKA. Mr. President, I am pleased to reintroduce the Fairness in

Judiciary Appointments Act of 1997, with my colleague, the senior Senator from Hawaii. Our measure would require the appointment of judges on the circuit court of appeals from all States in the circuit. This legislation is identical to S. 1320, which was introduced in 1995.

This measure will require no new appropriations and no additional spending authority. It would, however, ensure fairness in the appointment of circuit court judges and remove political pressure in weighing the nomination of a person from a more populated State over an individual from a less populated State.

Our bill would require that judges on the circuit court of appeals be appointed from every State in the circuit. The impact of the measure on fairness and justice would be long-term and far-reaching. It will assure that all citizens of every State in the Nation are represented by an active circuit judge on each of the circuits.

I am disappointed that the past three administrations have failed to nominate a circuit court judge from Hawaii, which is part of the ninth circuit. Hawaii's only active judge serves as a senior judge since his retirement over 10 years ago. There are currently 8 vacancies on the court out of 28 seats. Two additional judges are expected to retire this spring, which will mean that a full one-third of the seats on the ninth circuit court will be vacant.

I will not go into the inability of the Senate to act on judicial appointments in the last Congress at this time. However, I will state for my colleagues that I am hopeful we will eliminate the existing backlog of vacancies at all levels of the Federal court system in a bipartisan manner.

It is my firm belief that legal decisions should be based on the law, not representation. But representation would add to the credibility and legitimacy of the Federal appellate courts and the decisions they render. I urge my colleagues to support the Fairness in Judiciary Appointment Act of 1997.

Mr. President, I ask consent that my bill be printed in the RECORD.

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

S. 382

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. STATE RESIDENCY OF JUDGES OF FEDERAL COURTS OF APPEALS.**

(a) IN GENERAL.—Section 44(c) of title 28, United States Code, is amended—

(1) in inserting "(1)" after "(c)"; and

(2) by adding at the end thereof the following new paragraph:

"(2) In each circuit (other than the Federal judicial circuit) there shall be at least one circuit judge in regular active service appointed from the residents of each State in that circuit."

(b) APPOINTMENTS.—As vacancies occur and judgeships are created for Federal circuit judges, the President shall make appointments under section 44(a) of title 28, United States Code, in a manner to meet the re-

quirements of subsection (c)(2) of such section (as added by subsection (a) of this section) at the earliest practical date.

By Mr. D'AMATO:

S. 383. A bill to require the Director of the Federal Emergency Management Agency to provide funds for compensation for expenses incurred by the State of New York, Nassau County and Suffolk County, NY, and New York City, NY, as a result of the crash of flight 800 of Trans World Airlines; to the Committee on Environment and Public Works.

FEDERAL EMERGENCY MANAGEMENT AGENCY  
LEGISLATION

• Mr. D'AMATO. Mr. President, I introduce legislation which will require the Director of the Federal Emergency Management Agency [FEMA] to compensate the many State, county, and local governments throughout New York that assisted Federal officials in the rescue and salvage operations immediately following the crash of Trans World Airlines Flight 800.

As you will recall Mr. President, on July 17, 1996, TWA flight 800 crashed into Federal waters off the coast of Long Island, NY killing all 230 persons aboard. Immediately following the incident a vast army of rescuers set forth from the counties of Nassau and Suffolk, Long Island, and the city of New York to offer their assistance. Many of the rescuers were ordinary citizens. Others were from U.S. Coast Guard stations located within the area. However, the vast majority of the rescuers came from the many State, county, and local municipalities throughout the region. Braving darkness and rolling seas these heroes set forth upon the Atlantic Ocean, in many cases in small boats piloted by area residents and fishermen to help persons unknown to them.

In the hours and days immediately following the tragic crash, divers from the city of New York, and the New York State Police, working with Navy and Coast Guard officials, began their search for survivors. Braving frigid waters, darkness and the hazards created by the wreckage itself they soon realized the enormity of the loss of life. They then began the undaunted task of recovering the bodies of those who had lost their lives in the crash. These divers labored around the clock for weeks on end with only a few hours of fitful sleep performing this most sensitive of tasks. The men and women who labored under these harshest of conditions are to be commended.

While efforts continued under the water, the air above the crash site was filled with activity. National Guard helicopters stationed in New York were requested to transport Federal officials to and from the crash site and to assist in recovery operations.

On land, National Guard engineers provided cranes to lift large pieces of the aircraft. These pieces were eventually loaded upon National Guard trucks in Brooklyn, NY, and transported to a hangar at Calverton, Long

Island where they were reassembled. National Guard units provided security at the Brooklyn and Calverton facilities. National Guard units also provided generators to provide desperately needed lighting to assist in the recovery process.

Additionally, the New York State Department of Transportation provided steel and lumber in support of the National Guard's recovery efforts. The New York State Department of Corrections provided mobile homes to provide temporary housing for U.S. Navy and Coast Guard officials. New York State, county, and local police officials assisted the FBI with the collection and processing of large pieces of the aircraft. These same officials also provided security at the reassembly facility at Calverton. In probably one of the most sensitive and delicate of efforts, members of the Suffolk County Medical Examiners Office worked tirelessly and expeditiously in the identification of the victims of the crash in order that they might be returned to their loved ones. These are only a few of the examples of the assistance that was provided by and continues to this date to be provided by the citizens of the State of New York to Federal authorities.

New York State, New York City, Suffolk and Nassau Counties offered their assistance in this emergency without hesitation. However, the magnitude of the rescue and recovery operation imposed tremendous financial strains on these entities. To date, nearly \$13 million has been spent by State, city, and county governments and this total could very well increase as the final accountings are tallied. The legislation that I am introducing today will provide financial compensation to these entities for the costs they incurred in responding to and assisting in the efforts to retrieve the bodies and wreckage of TWA flight 800. This legislation will require that all requests for restitution be forwarded directly to the Governor of New York who will in turn submit a request to the Federal Emergency Management Agency. Total compensation would be capped at \$20 million.

Mr. President, we all commend the efforts of the State of New York, the city of New York, and Nassau and Suffolk Counties and the many thousands of men and women who offered their assistance in this time of need. I believe that this is the right thing to do to provide fair compensation to those entities that responded to this extraordinary and tragic incident. I encourage my colleagues to cosponsor this measure and I urge its prompt consideration.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 383

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

# SECTION 1. PAYMENT TO THE STATE OF NEW YORK.

(a) IN GENERAL.—Subject to the limitation under subsection (b), the Director of the Federal Emergency Management Agency (referred to in this section as the "Director") shall pay, from funds available to the Director, to the State of New York an amount determined by the Director, in consultation with the units of government referred to in paragraphs (1) through (3), to be equal to the aggregate amount of the expenses incurred (but not reimbursed by the Federal Government under other law) as a result of the crash of flight 800 of Trans World Airlines on July 17, 1996, off the coast of Long Island, New York, by—

- (1) the State of New York;
- (2) Nassau County and Suffolk County, New York; and
- (3) New York City, New York.

(b) LIMITATION.—The total amount paid by the Director to the State of New York under subsection (a) shall not exceed \$20,000,000.

# SEC. 2. DISTRIBUTION OF FUNDS.

(a) DISTRIBUTION BY STATE OF NEW YORK.—The Governor of the State of New York (in this section referred to as the "Governor") shall use the amount paid to the State of New York under section 1—

(1) as reimbursement for expenses incurred by the State as a result of the crash referred to in section 1(a); and

(2) to make payments to the units of government specified in paragraphs (2) and (3) of section 1(a).

(b) REQUESTS FOR COMPENSATION.—

(1) IN GENERAL.—

(A) SOLICITATION OF REQUESTS.—The Governor shall solicit requests for compensation for expenses referred to in section 1(a) from the units of government referred to in subsection (a)(2).

(B) REQUIREMENTS FOR REQUESTS.—Each request made under this subsection shall—

- (i) be in writing;
- (ii) contain appropriate documentation; and
- (iii) be submitted in such form, and in such manner, as the Governor may specify.

(2) DELEGATION OF AUTHORITY.—If the Governor determines that the review of the requests by the Director of Emergency Management of the State of New York is appropriate, the Governor may delegate the review of the requests to the Director of Emergency Management.

(3) REVIEW OF REQUESTS.—The Governor or the Director of Emergency Management, as the case may be, shall review each request submitted under paragraph (1).

(4) PAYMENTS.—If, on completion of a review under paragraph (3)—

(A) the Governor determines that a request is appropriate and accurate, the Governor shall make a payment under subsection (a)(2) to the unit of government that submitted the request; or

(B) the Director of Emergency Management determines that a request is appropriate and accurate, the Director of Emergency Management shall inform the Governor of the results of the review, and the Governor shall make a payment under subsection (a)(2) to the unit of government that submitted the request.●

By Mr. CONRAD:

S. 384. A bill to amend the Solid Waste Disposal Act to allow States to regulate the disposal of municipal solid waste generated outside the State; to the Committee on Environment and Public Works.

## SOLID WASTE DISPOSAL ACT AMENDMENTS

● Mr. CONRAD. Mr. President, today I introduce legislation to give States and localities the right to regulate, and if they choose, reject, interstate shipments of municipal solid waste.

Mr. President, this is not a new issue to this body; we have grappled with the subject of interstate waste for years. The Senate has passed legislation to address this problem in each of the past three Congresses. Unfortunately, similar legislation has not been passed by the House of Representatives. This problem only grows more and more serious as we delay passing this important legislation.

An estimated 16 million tons of municipal solid waste travels across State lines each and every year. And the problem will only grow in the future. Last May, New York City Mayor Rudolph Giuliani and New York Gov. George Pataki announced an agreement to close the city's last landfill, the Fresh Kills landfill. Without additional landfill space in New York, an additional 4 million tons of municipal solid waste will be on the interstate market every year after Fresh Kills closes on December 31, 2001.

Landfills across the country are filling up, and communities are searching for new places to send their garbage. They are looking at places like North Dakota, where the air, water, and soil have not been spoiled by pollution and where local communities may be willing to take tremendous amounts of money in exchange for landfill space. Whether they want this imported waste or not, States and surrounding communities are almost powerless to stop the flow of garbage across their borders. Further, residents of local communities that agree to accept out-of-State waste often do not have all the information they need to make an informed choice to open their landfill space to imported garbage.

Mr. President, out-of-State waste has already come to my State of North Dakota. We have been accepting industrial waste from General Motors plants from all across the country, although GM has recently begun sending their waste to another facility. We also import municipal solid waste incinerator ash from Minnesota. And one waste company tried for many years to open a superdump in North Dakota that would take nearly twice as much municipal solid waste as the entire State of North Dakota produces. My State is not unique in its situation; this is happening all across the country.

Mr. President, the residents of my State and citizens across the country are tired of being powerless to regulate interstate waste. In fact, just last year North Dakota's voters approved an initiated measure that was designed to deter imports of other States' waste into North Dakota. That measure was ruled unconstitutional by the U.S. district judge. In the judge's decision, he wrote, "The reality appears to be that trash is trash, and any law classifying

it into home-grown versus foreign will not work."

Mr. President, unless Congress acts to give States and localities the authority to regulate and reject interstate waste, this situation will continue. The bill I am introducing today is really very simple. First, it gives States the authority to regulate interstate waste. If a State wants to reject new solid waste shipments, my bill would allow that.

Second, it requires that affected local governments formally approve of any waste import. This gives the communities the ability to veto proposed shipments of out-of-State waste.

Third, it provides an opportunity for the area surrounding the host community to be involved in a decision to accept out-of-State waste. A decision on siting a solid waste landfill, especially one that will take large amounts of imported waste, must be a collective one, and a small community alone should not be able to make a decision that will affect a much larger area.

Finally, my bill requires that waste companies publicly release all the relevant information about their proposed landfill before a community makes a decision on it. This information should include estimated environmental impacts and mitigation, economic impacts, planned expansion, financial disclosure, and records of past violations by the owner and operator of the proposed disposal site. Waste companies hold up the promise of jobs and economic incentives, but they do not want to reveal the potential risks involved in their plans. In many cases, they may not even reveal their overall plans until it is too late to stop them. One practice I have seen involves having a local developer purchase a site and get a permit to dispose of modest amounts of solid waste. The big interstate waste company then buys out the local party and aggressively expands the site's permit. The local community doesn't have a chance. This isn't fair and cannot be allowed to continue. Communities must be able to make informed choices.

Mr. President, we have been working on the interstate waste problem in the Senate for many years now. The problem has not gone away and it will not go away without congressional action. The trash is still moving, and States and communities are almost powerless to stop it. It is time to enact strong interstate waste legislation into law.

Mr. President, I ask unanimous consent that a copy of my bill be included in the RECORD.

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

S. 384

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

# SECTION 1. AUTHORITY FOR STATES TO REGULATE MUNICIPAL SOLID WASTE GENERATED IN ANOTHER STATE.

(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:

**"SEC. 4011. AUTHORITY FOR STATES TO REGULATE MUNICIPAL SOLID WASTE GENERATED IN ANOTHER STATE.**

"(a) DEFINITIONS.—In this section:

"(1) AFFECTED LOCAL GOVERNMENT.—The term 'affected local government' means the elected officials of a political subdivision of a State in which a facility for the treatment, incineration, or disposal of municipal solid waste is located (as designated by the State under subsection (d)).

"(2) AFFECTED LOCAL SOLID WASTE PLANNING UNIT.—The term 'affected local solid waste planning unit' means a planning unit, established under State law, that has—

"(A) jurisdiction over the geographic area in which a facility for the treatment, incineration, or disposal of municipal waste is located; and

"(B) authority relating to solid waste management planning.

"(3) MUNICIPAL SOLID WASTE.—

"(A) IN GENERAL.—The term 'municipal solid waste' means refuse, and any non-hazardous residue generated from the combustion of the refuse, generated by—

"(i) the general public;

"(ii) a residential, commercial, or industrial source (or any combination of the sources); or

"(iii) a municipal solid waste incinerator facility.

"(B) INCLUSIONS.—The term 'municipal solid waste' includes refuse that consists of paper, wood, yard waste, plastic, leather, rubber, or other combustible or noncombustible material such as metal or glass (or any combination of the materials).

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

"(i) hazardous waste identified under section 3001;

"(ii) waste resulting from an action taken under section 104 or 106 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9604, 9606);

"(iii) material collected for the purpose of recycling or reclamation;

"(iv) waste generated in the provision of service in interstate, intrastate, foreign, or overseas air transportation;

"(v) industrial waste (including debris from construction or demolition) that is not identical to municipal solid waste in composition and physical and chemical characteristics or that is not collected and disposed of with other municipal solid waste collection services; or

"(vi) medical waste that is segregated from municipal solid waste.

"(b) AUTHORITY TO REGULATE.—

"(1) IN GENERAL.—Each State is authorized to enact and enforce a State law that regulates the treatment, incineration, and disposal of municipal solid waste generated in another State.

"(2) AUTHORITIES.—A State law described in paragraph (1) may include provisions for—

"(A) the imposition of a ban or limit on the importation of municipal solid waste generated outside the State; and

"(B) the collection of differential fees or other charges for the treatment, incineration, or disposal of municipal solid waste generated in another State.

"(c) LOCAL GOVERNMENT APPROVAL.—

"(1) IN GENERAL.—Except as provided in paragraph (2) or as provided under State law, the owner or operator of a landfill, incinerator, or other waste disposal facility in a State may not accept for treatment, incineration, or disposal any municipal solid waste generated outside the State unless the owner or operator has obtained a written authorization to accept the waste from—

"(A) the affected local government; and

"(B) any affected local solid waste planning unit established under State law.

"(2) EXCEPTIONS.—

"(A) IN GENERAL.—Paragraph (1) shall not apply with respect to an owner or operator of a landfill, incinerator, or other waste disposal facility that—

"(i) otherwise complies with all applicable laws of the State in which the facility is located relating to the treatment, incineration, or disposal of municipal solid waste; and

"(ii) before the date of enactment of this section, accepted for treatment, incineration, or disposal municipal solid waste generated outside the State.

"(B) EXISTING AUTHORIZATIONS.—An owner or operator of a facility described in paragraph (1) that, before the date of enactment of this section, obtained a written authorization from—

"(i) the appropriate official of a political subdivision of the State (as determined by the State); and

"(ii) any affected local solid waste planning unit established pursuant to the law of the State;

to carry out the treatment, incineration, or disposal of municipal solid waste generated outside the State shall, during the period of authorization, be considered to be in compliance with the requirements of paragraph (1).

"(C) FACILITIES UNDER CONSTRUCTION.—If, before the date of enactment of this section, an appropriate political subdivision of a State (as determined by the State) and any affected local solid waste planning unit established under the law of the State issued a written authorization for a facility that is under construction, or is to be constructed, to accept for treatment, incineration, or disposal municipal solid waste generated outside the State, the owner or operator of the facility, when construction is completed, shall be considered to be in compliance with paragraph (1) during the period of authorization.

"(3) EXPANSION OF FACILITIES.—An owner or operator that expands a landfill, incinerator, or other waste disposal facility shall be required to obtain the authorizations required under paragraph (1) before accepting for treatment, incineration, or disposal municipal solid waste that is generated outside the State.

"(4) PROCEDURE.—Before taking formal action with respect to an authorization to receive municipal solid waste or incinerator ash generated outside the State, the affected local government and the affected local solid waste planning unit shall—

"(A) require from the owner or operator of the facility seeking the authorization and make readily available to the Governor, adjoining Indian tribes, and other interested persons for inspection and copying—

"(i) a brief description of the planned facility, including a description of the facility size, ultimate waste capacity, and anticipated monthly and yearly waste quantity to be handled;

"(ii) a map of the facility that discloses—

"(I) the location of the facility in relation to the local road system and topographical and hydrological features; and

"(II) any buffer zones and facility units that are to be acquired by the owner or operator of the facility;

"(iii) a description of the then-current environmental characteristics of the facility, including information regarding—

"(I) ground water resources; and

"(II) alterations that may be necessitated by or occur as a result of operation of the facility;

"(iv) a description of—

"(I) appropriate environmental controls to be used at the facility, including run-on or runoff management, air pollution control devices, source separation procedures, methane

monitoring and control, landfill covers, liners, leachate collection systems, and monitoring and testing programs; and

"(II) any waste residuals generated by the facility, including leachate or ash, and the planned management of the residuals;

"(v) 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;

"(vi) a list of all required Federal, State, and local permits required to operate the landfill and receive waste generated outside the State;

"(vii) estimates of the personnel requirements of the facility, including information regarding the probable skill and education levels required for jobs at the facility that distinguishes between employment statistics for pre-operational levels and those for post-operational levels;

"(viii) (I) information with respect to any violations of law (including regulations) by the owner or operator, or subsidiaries;

"(II) the disposition of enforcement proceedings taken with respect to the violations; and

"(III) corrective action and rehabilitation measures taken as a result of the proceedings;

"(ix) information required by State law to be provided with respect to gifts, contributions, and contracts by the owner or operator to any elected or appointed public official, agency, institution, business, or charity located within the affected local area to be served by the facility;

"(x) information required by State law to be provided by the owner or operator with respect to compliance by the owner or operator with the State solid waste management plan in effect under section 4007;

"(xi) information with respect to the source and amount of capital required to construct and operate the facility in accordance with the information provided under clauses (i) through (vii); and

"(xii) information with respect to the source and amount of insurance, collateral, or bond secured by the applicant to meet all Federal and State requirements;

"(B) provide opportunity for public comment, including at least 1 public hearing; and

"(C) not less than 30 days before taking formal action—

"(i) publish notice of the action in a newspaper of general circulation; and

"(ii) notify the Governor, adjoining local governments, and adjoining Indian tribes.

"(d) DESIGNATION OF AFFECTED LOCAL GOVERNMENT.—

"(1) IN GENERAL.—Not later than 90 days after the date of enactment of this section, the Governor of each State shall designate the type of political subdivision of the State that shall serve as the affected local government for the purpose of authorizing a facility to accept for treatment, incineration, or disposal of municipal solid waste generated outside of the State.

"(2) FAILURE TO DESIGNATE.—If the Governor of a State fails to make a designation by the date specified in paragraph (1), the affected local government shall be the public body with primary jurisdiction over the land or use of the land on which the facility is located."

(b) TABLE OF CONTENTS.—The table of contents for subtitle D of the Solid Waste Disposal Act is amended by adding after the item relating to section 4010 the following:

"Sec. 4011. Authorization for States to regulate municipal solid waste generated in another State."•