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Senate

The Senate met at 10 a.m. and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, made the following announcement and offered prayer:

The Senate of the United States is a family. We care for each other, rejoice with each other, and suffer with each other. This morning, I announce to you that the former Chaplain, Dr. Richard Halverson, died last night. No person in recent history has done more to enable the Senate to be a family of caring people who support and encourage each other than Dr. Halverson.

Let us pray: Blessed living Holy God, Sovereign of this Nation and this Senate, we thank You for the way that You enrich our lives by the gift of persons who care. We praise You for the life of Richard Halverson, for 14 years the Chaplain of this Senate. We praise You for his integrity rooted in his intimate relationship with You that radiated upon his face and was communicated by his countenance. We thank You for the profound way that he cared for all of us and established deep relationships. He introduced people to You and helped them to grow as persons.

We bless and praise You now, Lord, as You are here with comfort and encouragement for us. You are with his wife, Doris, his sons, Chris and Steve, and his daughter, Debbie. Put Your arms of love around them, giving them hope.

Lord, we thank You this morning for the assurance that this life is but a small part of the whole of eternity and that death is only a transition in the midst of living for a man like Richard Halverson.

And so we thank You for him and praise You for Your enrichment of our lives through him. Through Jesus Christ, our Lord, Who has defeated the power of death and reigns forever. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The able majority leader, Senator DOLE, is recognized.

TRIBUTE TO THE REVEREND DR. RICHARD HALVERSON

Mr. DOLE. Mr. President, as the Chaplain mentioned in his opening prayer, the Senate today is mourning the passing of Dr. Richard Halverson.

As all Senators know, Dr. Halverson served as our Chaplain from 1981 until his retirement earlier this year.

Throughout his service as Chaplain, Dr. Halverson was a friend and counselor not only to Senators, but to the entire Senate family.

As many of my colleagues said upon Dr. Halverson's retirement, from Senate staffers to elevator operators to police force members to electricians, it would be impossible to tell how many lives Dr. Halverson touched here on Capitol Hill.

He came to the Senate after many years of service to churches in Missouri, California, and Maryland. He was recognized worldwide as a great humanitarian and traveled extensively through his leadership of World Vision, the Campus Crusade for Christ, Christian College Consortium, and the prayer breakfast movement.

Mr. President, perhaps our colleague, Senator NUNN, said it best earlier this year when he called Dr. Halverson ''our friend, our colleague, our mentor, our adviser and, most of all, our example.''

Later today, Senator DASCHLE and I will be submitting a resolution of condolence to be delivered to the Halverson family. It is my intent to include all Members of the Senate as cosponsors of this resolution.

At this time, I ask unanimous consent that the RECORD stay open for 15 days so that Senators may offer tributes to Dr. Halverson, and that these tributes be printed as a Senate document.

The PRESIDING OFFICER (Mr. FRIST). Without objection, it is so ordered.

RECOGNITION OF THE MINORITY LEADER

The PRESIDING OFFICER. The Democratic leader is recognized.

CELEBRATING THE LIFE OF DR. RICHARD HALVERSON

Mr. DASCHLE. Mr. President, the majority leader has just spoken for all of us. There is not a person in the Senate today who has not had the good fortune to benefit from the friendship of Dr. Halverson.

Someone once said that life has no blessing like that of a good friend. Dr. Halverson was a good friend to all of us. Rather than mourn his death, it is appropriate to celebrate his life, because, indeed, it was a celebration of joy, of blessing. It was a recognition that through his religious belief, emanating every morning as he came to this Chamber, we all felt a little stronger, we all felt a little better, we all felt perhaps a little wiser, we all felt a little more able to work with each other. His contribution to his country and to this body will last for a long, long time.

So today we celebrate his life. We send our condolences to his wife, Doris, and his family. We wish them the best. We recognize that in life comes achievement, and with his achievement, we all are the better.

I yield the floor.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Parliamentary inquiry, is it appropriate that I speak for 2 minutes?

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

ONE OF MY BEST FRIENDS

Mr. DOMENICI. Mr. President, later on, pursuant to the wishes of our leader, I will have much more to say about Reverend Halverson. I considered him to be one of my best friends in the whole world, but more than that, he cared for a lot of people. He was a true Chaplain, not just up here, but in the Halls and byways and offices of this place with families, with people who work for the Senate from the lowest paid to the highest paid. He took care of them.

He was very, very sick, particularly the last 3 weeks. I talked to his wife, Doris, this morning, his son Steven. Chris, his other son, was not there. It is kind of wonderful to see their expressions, because they obviously believe and they are very, very confident he is very happy today and that he is in everlasting life. That is marvelous to see, because that is just the way he would want their faith to be.

So not only to that family, but to all his large family here and everywhere in this city, and other places that he served, I think I can join with all of them in saying very simply that we thank God Almighty for sending people like Dr. Halverson to us.

I yield the floor.

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

A CONSTANT GOOD EXAMPLE—DR. RICHARD HALVERSON

Mr. CHAFEE. Mr. President, I think the words that we ''celebrate the life of Richard Halverson'' are appropriate. Richard Halverson, as has been pointed out, served as Chaplain here for 16 years.

As has been mentioned, he did not restrict his duties to just the opening prayer. He came to see us when we had difficulties. He was a constant mentor, as has previously been suggested, and a constant good example. He epitomized what leading the Christian life is all about.

So we have been blessed to have known him. His life is one we all should celebrate and try to emulate to the greatest extent possible. So to all of his family, we send our very best wishes at this extremely difficult time, and our deepest condolences.

Mr. KEMPTHORNE addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho [Mr. KEMPTHORNE] is recognized.

OUR LIVES WERE ENRICHED BY DR. RICHARD HALVERSON

Mr. KEMPTHORNE. Mr. President, I join in the statements that have been made here this morning and say that our lives have been so enriched by Dr. Halverson. He was the U.S. Senate Chaplain, but he was a friend of the Senators of this institution.

In our roles, so often we need to have that camaraderie, that facilitator that can help us in finding that higher wisdom and the inner peace. Richard Halverson provided that to us. I know now that he has that inner peace, and we share, as has been stated in the blessings, having him as part of our lives here.

Our prayers are with him, as well as with Doris, Chris, and all of the family. We thank the Lord for providing him to us.

I yield the floor.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The majority leader is recognized.

SCHEDULE

Mr. DOLE. Mr. President, briefly, I advise my colleagues that, as indicated, we will begin consideration of S. 1316, the Safe Drinking Water Act. It is also possible that during today's session the Senate will consider the VA–HUD appropriations conference report, if it is received from the House. I think it is fair to say that we will have rollcall votes. I understand that Senator CHAFEE will be indicating there are a number of amendments. Some will require rollcalls.

We hope to complete action on the Safe Drinking Water Act, if not late today, by some time late afternoon tomorrow. At that time, I hope to announce the schedule for the remainder of the week. It may be that there may be a pro forma session only on Friday, or, if possible, we could take up additional conference reports if received from the House.

I yield the floor.

RESERVATION OF LEADER TIME

The PRESIDING OFFICER. Under the previous order, the leadership time is reserved.

SAFE DRINKING WATER ACT AMENDMENTS

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the consideration of S. 1316, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 1316) to reauthorize and amend title XIV of the Public Health Service Act (commonly known as the ''Safe Drinking Water Act''), and for other purposes, which had been reported from the Committee on Environment and Public Works, with amendments, as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets and the parts of the bill intended to be inserted are shown in italic.)

S. 1316

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS; REFERENCES.

(a) SHORT TITLE.—This Act may be cited as the ''Safe Drinking Water Act Amendments of 1995''.

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

(c) REFERENCES TO TITLE XIV OF THE PUBLIC HEALTH SERVICE ACT.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title XIV of the Public Health Service Act (commonly known as the ''Safe Drinking Water Act'') (42 U.S.C. 300f et seq.).

SEC. 2. FINDINGS.

Congress finds that—

(1) safe drinking water is essential to the protection of public health;

(2) because the requirements of title XIV of the Public Health Service Act (commonly known as the ''Safe Drinking Water Act'') (42 U.S.C. 300f et seq.) now exceed the financial and technical capacity of some public water systems, especially many small public water systems, the Federal Government needs to provide assistance to communities to help the communities meet Federal drinking water requirements;

(3) the Federal Government commits to take steps to foster and maintain a genuine partnership with the States in the administration and implementation of the Safe Drinking Water Act;

(4) States play a central role in the implementation of safe drinking water programs, and States need increased financial resources and appropriate flexibility to ensure the prompt and effective development and implementation of drinking water programs;

(5) the existing process for the assessment and regulation of additional drinking water contaminants needs to be revised and improved to ensure that there is a sound scientific basis for drinking water regulations

and that the standards established address the health risks posed by contaminants;

(6) procedures for assessing the health effects of contaminants and establishing drinking water standards should be revised to provide greater opportunity for public education and participation;

(7) in setting priorities with respect to the health risks from drinking water to be addressed and in selecting the appropriate level of regulation for contaminants in drinking water, risk assessment and benefit-cost analysis are important and useful tools for improving the efficiency and effectiveness of drinking water regulations to protect human health;

(8) more effective protection of public health requires—

(A) a Federal commitment to set priorities that will allow scarce Federal, State, and local resources to be targeted toward the drinking water problems of greatest public health concern; and

(B) maximizing the value of the different and complementary strengths and responsibilities of the Federal and State governments in those States that have primary enforcement responsibility for the Safe Drinking Water Act; and

(9) compliance with the requirements of the Safe Drinking Water Act continues to be a concern at public water systems experiencing technical and financial limitations, and Federal, State, and local governments need more resources and more effective authority to attain the objectives of the Safe Drinking Water Act.

SEC. 3. STATE REVOLVING LOAN FUNDS.

The title (42 U.S.C. 300f et seq.) is amended by adding at the end the following:

"PART G—STATE REVOLVING LOAN FUNDS

"GENERAL AUTHORITY

"SEC. 1471. (a) CAPITALIZATION GRANT AGREEMENTS.—The Administrator shall offer to enter into an agreement with each State to make capitalization grants to the State pursuant to section 1472 (referred to in this part as 'capitalization grants') to establish a drinking water treatment State revolving loan fund (referred to in this part as a 'State loan fund').

"(b) REQUIREMENTS OF AGREEMENTS.—An agreement entered into pursuant to this section shall establish, to the satisfaction of the Administrator, that—

"(1) the State has established a State loan fund that complies with the requirements of this part;

"(2) the State loan fund will be administered by an instrumentality of the State that has the powers and authorities that are required to operate the State loan fund in accordance with this part;

"(3) the State will deposit the capitalization grants into the State loan fund;

"(4) the State will deposit all loan repayments received, and interest earned on the amounts deposited into the State loan fund under this part, into the State loan fund;

"(5) the State will deposit into the State loan fund an amount equal to at least 20 percent of the total amount of each payment to be made to the State on or before the date on which the payment is made to the State, except as provided in subsection (c)(4);

"(6) the State will use funds in the State loan fund in accordance with an intended use plan prepared pursuant to section 1474(b);

"(7) the State and loan recipients that receive funds that the State makes available from the State loan fund will use accounting procedures that conform to generally accepted accounting principles, auditing procedures that conform to chapter 75 of title 31, United States Code (commonly known as the 'Single Audit Act of 1984'), and such fiscal procedures as the Administrator may prescribe; and

"(8) the State has adopted policies and procedures to ensure that loan recipients are reasonably likely to be able to repay a loan.

"(c) ADMINISTRATION OF STATE LOAN FUNDS.—

"(1) IN GENERAL.—The authority to establish assistance priorities for financial assistance provided with amounts deposited into the State loan fund shall reside in the State agency that has primary responsibility for the administration of the State program under section 1413, after consultation with other appropriate State agencies (as determined by the State).

"(2) FINANCIAL ADMINISTRATION.—A State may combine the financial administration of the State loan fund pursuant to this part with the financial administration of a State water pollution control revolving fund established by the State pursuant to title VI of the Federal Water Pollution Control Act (33 U.S.C. 1381 et seq.), or other State revolving funds providing financing for similar purposes, if the Administrator determines that the grants to be provided to the State under this part, and the loan repayments and interest deposited into the State loan fund pursuant to this part, will be separately accounted for and used solely for the purposes of and in compliance with the requirements of this part.

"(3) TRANSFER OF FUNDS.—

"(A) IN GENERAL.—Notwithstanding any other provision of law, a Governor of a State may—

"(i) reserve up to 50 percent of a capitalization grant made pursuant to section 1472 and add the funds reserved to any funds provided to the State pursuant to section 601 of the Federal Water Pollution Control Act (33 U.S.C. 1381); and

"(ii) reserve in any year a dollar amount up to the dollar amount that may be reserved under clause (i) for that year from capitalization grants made pursuant to section 601 of such Act (33 U.S.C. 1381) and add the reserved funds to any funds provided to the State pursuant to section 1472.

"(B) STATE MATCH.—Funds reserved pursuant to this paragraph shall not be considered to be a State match of a capitalization grant required pursuant to this title or the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.).

"(4) EXTENDED PERIOD.—Notwithstanding subsection (b)(5), a State shall not be required to deposit a State matching amount into the fund prior to the date on which each payment is made for payments from funds appropriated for fiscal years 1994, 1995, and 1996, if the matching amounts for the payments are deposited into the State fund prior to September 30, 1998.

"CAPITALIZATION GRANTS

"SEC. 1472. (a) GENERAL AUTHORITY.—The Administrator may make grants to capitalize State loan funds to a State that has entered into an agreement pursuant to section 1471.

"(b) FORMULA FOR ALLOTMENT OF FUNDS.—

"(1) IN GENERAL.—Subject to subsection (c) and paragraph (2), funds made available to carry out this part shall be allotted to States that have entered into an agreement pursuant to section 1471 in accordance with—

"(A) for each of fiscal years 1995 through 1997, a formula that is the same as the formula used to distribute public water system supervision grant funds under section 1443 in fiscal year 1995, except that the minimum proportionate share established in the formula shall be 1 percent of available funds and the formula shall be adjusted to include a minimum proportionate share for the State of Wyoming; and

"(B) for fiscal year 1998 and each subsequent fiscal year, a formula that allocates to each State the proportional share of the State needs identified in the most recent survey conducted pursuant to section 1475(c), except that the minimum proportionate share provided to each State shall be the same as the minimum proportionate share provided under subparagraph (A).

"(2) OTHER JURISDICTIONS.—The formula established pursuant to paragraph (1) shall reserve 0.5 percent of the amounts made available to carry out this part for a fiscal year for providing direct grants to the jurisdictions, other than Indian Tribes, referred to in subsection (f).

"(c) RESERVATION OF FUNDS FOR INDIAN TRIBES.—

"(1) IN GENERAL.—For each fiscal year, prior to the allotment of funds made available to carry out this part, the Administrator shall reserve 1.5 percent of the funds for providing financial assistance to Indian Tribes pursuant to subsection (f).

"(2) USE OF FUNDS.—Funds reserved pursuant to paragraph (1) shall be used to address the most significant threats to public health associated with public water systems that serve Indian Tribes, as determined by the Administrator in consultation with the Director of the Indian Health Service *and Indian Tribes*.

"(3) NEEDS ASSESSMENT.—The Administrator, in consultation with the Director of the Indian Health Service *and Indian Tribes*, shall, in accordance with a schedule that is consistent with the needs surveys conducted pursuant to section 1475(c), prepare surveys and assess the needs of drinking water treatment facilities to serve Indian Tribes, including an evaluation of the public water systems that pose the most significant threats to public health.

"(d) TECHNICAL ASSISTANCE FOR SMALL SYSTEMS.—

"(1) DEFINITIONS.—In this subsection:

"(A) SMALL SYSTEM.—The term 'small system' means a public water system that serves a population of 10,000 or fewer.

"(B) TECHNICAL ASSISTANCE.—The term 'technical assistance' means assistance provided by a State to a small system, including assistance to potential loan recipients and assistance for planning and design, development and implementation of a source water quality protection partnership program, alternative supplies of drinking water, restructuring or consolidation of a small system, and treatment to comply with a national primary drinking water regulation.

"(2) RESERVATION OF FUNDS.—To provide technical assistance pursuant to this subsection, each State may reserve from capitalization grants received in any year an amount that does not exceed the greater of—

"(A) an amount equal to 2 percent of the amount of the capitalization grants received by the State pursuant to this section; or

"(B) $300,000.

"(e) ALLOTMENT PERIOD.—

"(1) PERIOD OF AVAILABILITY FOR FINANCIAL ASSISTANCE.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the sums allotted to a State pursuant to subsection (b) for a fiscal year shall be available to the State for obligation during the fiscal year for which the sums are authorized and during the following fiscal year.

"(B) FUNDS MADE AVAILABLE FOR FISCAL YEARS 1995 AND 1996.—The sums allotted to a State pursuant to subsection (b) from funds that are made available by appropriations for each of fiscal years 1995 and 1996 shall be available to the State for obligation during each of fiscal years 1995 through 1998.

"(2) REALLOTMENT OF UNOBLIGATED FUNDS.—Prior to obligating new allotments

made available to the State pursuant to subsection (b), each State shall obligate funds accumulated before a date that is 1 year prior to the date of the obligation of a new allotment from loan repayments and interest earned on amounts deposited into a State loan fund. The amount of any allotment that is not obligated by a State by the last day of the period of availability established by paragraph (1) shall be immediately reallotted by the Administrator on the basis of the same ratio as is applicable to sums allotted under subsection (b), except that the Administrator may reserve and allocate 10 percent of the remaining amount for financial assistance to Indian Tribes in addition to the amount allotted under subsection (c). None of the funds reallotted by the Administrator shall be reallotted to any State that has not obligated all sums allotted to the State pursuant to this section during the period in which the sums were available for obligation.

''(3) ALLOTMENT OF WITHHELD FUNDS.—All funds withheld by the Administrator pursuant to subsection (g) and section 1442(e)(3) shall be allotted by the Administrator on the basis of the same ratio as is applicable to funds allotted under subsection (b). None of the funds allotted by the Administrator pursuant to this paragraph shall be allotted to a State unless the State has met the requirements of section 1418(a).

''(f) DIRECT GRANTS.—

''(1) IN GENERAL.—The Administrator is authorized to make grants for the improvement of public water systems of Indian Tribes, the District of Columbia, the United States Virgin Islands, the Commonwealth of the Northern Mariana Islands, American Samoa, and Guam and, if funds are appropriated to carry out this part for fiscal year 1995, the Republic of Palau.

''(2) ALASKA NATIVE VILLAGES.—In the case of a grant for a project under this subsection in an Alaska Native village, the Administrator is also authorized to make grants to the State of Alaska for the benefit of Native villages. An amount not to exceed 4 percent of the grant amount may be used by the State of Alaska for project management.

''(g) NEW SYSTEM CAPACITY.—Beginning in fiscal year 1999, the Administrator shall withhold the percentage prescribed in the following sentence of each capitalization grant made pursuant to this section to a State unless the State has met the requirements of section 1418(a). The percentage withheld shall be 5 percent for fiscal year 1999, 10 percent for fiscal year 2000, and 15 percent for each subsequent fiscal year.

''ELIGIBLE ASSISTANCE

''SEC. 1473. (a) IN GENERAL.—The amounts deposited into a State loan fund, including any amounts equal to the amounts of loan repayments and interest earned on the amounts deposited, may be used by the State to carry out projects that are consistent with this section.

''(b) PROJECTS ELIGIBLE FOR ASSISTANCE.—

''(1) IN GENERAL.—The amounts deposited into a State loan fund shall be used only for providing financial assistance for capital expenditures and associated costs (but excluding the cost of land acquisition unless the cost is incurred to acquire land for the construction of a treatment facility or for a consolidation project) for—

''(A) a project that will facilitate compliance with national primary drinking water regulations promulgated pursuant to section 1412;

''(B) a project that will facilitate the consolidation of public water systems or the use of an alternative source of water supply;

''(C) a project that will upgrade a drinking water treatment system; and

''(D) the development of a public water system to replace private drinking water supplies if the private water supplies pose a significant threat to human health.

''(2) OPERATOR TRAINING.—Associated costs eligible for assistance under this part include the costs of training and certifying the persons who will operate facilities that receive assistance pursuant to paragraph (1).

''(3) LIMITATION.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), no assistance under this part shall be provided to a public water system that—

''(i) does not have the technical, managerial, and financial capability to ensure compliance with the requirements of this title; and

''(ii) has a history of—

''(I) past violations of any maximum contaminant level or treatment technique established by a regulation or a variance; or

''(II) significant noncompliance with monitoring requirements or any other requirement of a national primary drinking water regulation or variance.

''(B) RESTRUCTURING.—A public water system described in subparagraph (A) may receive assistance under this part if—

''(i) the owner or operator of the system agrees to undertake feasible and appropriate changes in operations (including ownership, management, accounting, rates, maintenance, consolidation, alternative water supply, or other procedures) if the State determines that such measures are necessary to ensure that the system has the technical, managerial, and financial capability to comply with the requirements of this title over the long term; and

''(ii) the use of the assistance will ensure compliance.

''(c) ELIGIBLE PUBLIC WATER SYSTEMS.—A State loan fund*, or the Administrator in the case of direct grants under section 1472(f)*, may provide financial assistance only to community water systems, publicly owned water systems (other than systems owned by Federal agencies), and nonprofit noncommunity water systems.

''(d) TYPES OF ASSISTANCE.—Except as otherwise limited by State law, the amounts deposited into a State loan fund under this section may be used only—

''(1) to make loans, on the condition that—

''(A) the interest rate for each loan is less than or equal to the market interest rate, including an interest free loan;

''(B) principal and interest payments on each loan will commence not later than 1 year after completion of the project for which the loan was made, and each loan will be fully amortized not later than 20 years after the completion of the project, except that in the case of a disadvantaged community (as defined in subsection (e)(1)), a State may provide an extended term for a loan, if the extended term—

''(i) terminates not later than the date that is 30 years after the date of project completion; and

''(ii) does not exceed the expected design life of the project;

''(C) the recipient of each loan will establish a dedicated source of revenue for the repayment of the loan; and

''(D) the State loan fund will be credited with all payments of principal and interest on each loan;

''(2) to buy or refinance the debt obligation of a municipality or an intermunicipal or interstate agency within the State at an interest rate that is less than or equal to the market interest rate in any case in which a debt obligation is incurred after October 14, 1993, or to refinance a debt obligation for a project constructed to comply with a regulation established pursuant to an amendment to this title made by the Safe Drinking Water Act Amendments of 1986 (Public Law 99–339; 100 Stat. 642);

''(3) to guarantee, or purchase insurance for, a local obligation (all of the proceeds of which finance a project eligible for assistance under subsection (b)) if the guarantee or purchase would improve credit market access or reduce the interest rate applicable to the obligation;

''(4) as a source of revenue or security for the payment of principal and interest on revenue or general obligation bonds issued by the State if the proceeds of the sale of the bonds will be deposited into the State loan fund;

''(5) as a source of revenue or security for the payment of interest on a local obligation (all of the proceeds of which finance a project eligible for assistance under subsection (b)); and

''(6) to earn interest on the amounts deposited into the State loan fund.

''(e) ASSISTANCE FOR DISADVANTAGED COMMUNITIES.—

''(1) DEFINITION OF DISADVANTAGED COMMUNITY.—In this subsection, the term 'disadvantaged community' means the service area of a public water system that meets affordability criteria established after public review and comment by the State in which the public water system is located. The Administrator may publish information to assist States in establishing affordability criteria.

''(2) LOAN SUBSIDY.—Notwithstanding subsection (d), in any case in which the State makes a loan pursuant to subsection (d) to a disadvantaged community or to a community that the State expects to become a disadvantaged community as the result of a proposed project, the State may provide additional subsidization (including forgiveness of principal).

''(3) TOTAL AMOUNT OF SUBSIDIES.—For each fiscal year, the total amount of loan subsidies made by a State pursuant to paragraph (2) may not exceed 30 percent of the amount of the capitalization grant received by the State for the year.

''(f) SOURCE WATER QUALITY PROTECTION AND CAPACITY DEVELOPMENT.—

''(1) IN GENERAL.—Notwithstanding subsection (b)(1), a State may—

''(A) provide assistance, only in the form of a loan, to—

''(i) any public water system described in subsection (c) to acquire land or a conservation easement *from a willing seller or grantor*, if the purpose of the acquisition is to protect the source water of the system from contamination; or

''(ii) any community water system described in subsection (c) to provide funding in accordance with section 1419(d)(1)(C)(i);

''(B) provide assistance, including technical and financial assistance, to any public water system as part of a capacity development strategy developed and implemented in accordance with section 1418(c); and

''(C) make expenditures from the capitalization grant of the State for fiscal years 1996 and 1997 to delineate and assess source water protection areas in accordance with section 1419, except that funds set aside for such expenditure shall be obligated within 4 fiscal years.

''(2) LIMITATION.—For each fiscal year, the total amount of assistance provided and expenditures made by a State under this subsection may not exceed [10] *15* percent of the amount of the capitalization grant received by the State for that [year.] *year and may not exceed 10 percent of that amount for any one of the following activities:*

''(A) To acquire land or conservation easements pursuant to paragraph (1)(A)(i).

''(B) To provide funding to implement recommendations of source water quality protection partnerships pursuant to paragraph (1)(A)(ii).

''(C) To provide assistance through a capacity development strategy pursuant to paragraph (1)(B).

''(D) To make expenditures to delineate or assess source water protection areas pursuant to paragraph (1)(C).

''STATE LOAN FUND ADMINISTRATION

''SEC. 1474. (a) ADMINISTRATION, TECHNICAL ASSISTANCE, AND MANAGEMENT.—

''(1) ADMINISTRATION.—Each State that has a State loan fund is authorized to expend from the annual capitalization grant of the State a reasonable amount, not to exceed 4 percent of the capitalization grant made to the State, for the costs of the administration of the State loan fund.

''(2) STATE PROGRAM MANAGEMENT ASSISTANCE.—

''(A) IN GENERAL.—Each State that has a loan fund is authorized to expend from the annual capitalization grant of the State an amount, determined pursuant to this paragraph, to carry out the public water system supervision program under section 1443(a) and to—

''(i) administer, or provide technical assistance through, source water quality protection programs, including a partnership program under section 1419; and

''(ii) develop and implement a capacity development strategy under section 1418(c) in the State.

''(B) LIMITATION.—Amounts expended by a State pursuant to this paragraph for any fiscal year may not exceed an amount that is equal to the amount of the grant funds available to the State for that fiscal year under section 1443(a).

''(C) STATE FUNDS.—For any fiscal year, funds may not be expended pursuant to this paragraph unless the Administrator determines that the amount of State funds made available to carry out the public water system supervision program under section 1443(a) for the fiscal year is not less than the amount of State funds made available to carry out the program for fiscal year 1993.

''(b) INTENDED USE PLANS.—

''(1) IN GENERAL.—After providing for public review and comment, each State that has entered into a capitalization agreement pursuant to this part shall annually prepare a plan that identifies the intended uses of the amounts available to the State loan fund of the State.

''(2) CONTENTS.—An intended use plan shall include—

''(A) a list of the projects to be assisted in the first fiscal year that begins after the date of the plan, including a description of the project, the expected terms of financial assistance, and the size of the community served;

''(B) the criteria and methods established for the distribution of funds; and

''(C) a description of the financial status of the State loan fund and the short-term and long-term goals of the State loan fund.

''(3) USE OF FUNDS.—

''(A) IN GENERAL.—An intended use plan shall provide, to the maximum extent practicable, that priority for the use of funds be given to projects that—

''(i) address the most serious risk to human health;

''(ii) are necessary to ensure compliance with the requirements of this title (including requirements for filtration); and

''(iii) assist systems most in need on a per household basis according to State affordability criteria.

''(B) LIST OF PROJECTS.—Each State shall, after notice and opportunity for public comment, publish and periodically update a list of projects in the State that are eligible for assistance under this part, including the priority assigned to each project and, to the extent known, the expected funding schedule for each project.

''STATE LOAN FUND MANAGEMENT

''SEC. 1475. (a) IN GENERAL.—Not later than 1 year after the date of enactment of this part, and annually thereafter, the Administrator shall conduct such reviews and audits as the Administrator considers appropriate, or require each State to have the reviews and audits independently conducted, in accordance with the single audit requirements of chapter 75 of title 31, United States Code.

''(b) STATE REPORTS.—Not later than 2 years after the date of enactment of this part, and every 2 years thereafter, each State that administers a State loan fund shall publish and submit to the Administrator a report on the activities of the State under this part, including the findings of the most recent audit of the State loan fund.

''(c) DRINKING WATER NEEDS SURVEY AND ASSESSMENT.—Not later than 1 year after the date of enactment of this part, and every 4 years thereafter, the Administrator shall submit to Congress a survey and assessment of the needs for facilities in each State eligible for assistance under this part. The survey and assessment conducted pursuant to this subsection shall—

''(1) identify, by State, the needs for projects or facilities owned or controlled by community water systems eligible for assistance under this part on the date of the assessment (other than refinancing for a project pursuant to section 1473(d)(2));

''(2) estimate the needs for eligible facilities over the 20-year period following the date of the assessment;

''(3) identify, by size category, the population served by public water systems with needs identified pursuant to paragraph (1); and

''(4) include such other information as the Administrator determines to be appropriate.

''(d) EVALUATION.—The Administrator shall conduct an evaluation of the effectiveness of the State loan funds through fiscal year 1999. The evaluation shall be submitted to Congress at the same time as the President submits to Congress, pursuant to section 1108 of title 31, United States Code, an appropriations request for fiscal year 2001 relating to the budget of the Environmental Protection Agency.

''ENFORCEMENT

''SEC. 1476. The failure or inability of any public water system to receive funds under this part or any other loan or grant program, or any delay in obtaining the funds, shall not alter the obligation of the system to comply in a timely manner with all applicable drinking water standards and requirements of this title.

''REGULATIONS AND GUIDANCE

''SEC. 1477. The Administrator shall publish such guidance and promulgate such regulations as are necessary to carry out this part, including guidance and regulations to ensure that—

''(1) each State commits and expends funds from the State loan fund in accordance with the requirements of this part and applicable Federal and State laws; and

''(2) the States and eligible public water systems that receive funds under this part use accounting procedures that conform to generally accepted accounting principles, auditing procedures that conform to chapter 75 of title 31, United States Code (commonly known as the 'Single Audit Act of 1984'), and such fiscal procedures as the Administrator may prescribe.

''AUTHORIZATION OF APPROPRIATIONS

''SEC. 1478. (a) GENERAL AUTHORIZATION.—There are authorized to be appropriated to the Environmental Protection Agency to carry out this part $600,000,000 for fiscal year 1994 and $1,000,000,000 for each of fiscal years 1995 through 2003.

''(b) HEALTH EFFECTS RESEARCH.—From funds appropriated pursuant to this section for each fiscal year, the Administrator shall reserve $10,000,000 for health effects research on drinking water contaminants authorized by section 1442. In allocating funds made available under this subsection, the Administrator shall give priority to research concerning the health effects of cryptosporidium, disinfection byproducts, and arsenic, and the implementation of a research plan for subpopulations at greater risk of adverse effects pursuant to section 1442(l).

''(c) MONITORING FOR UNREGULATED CONTAMINANTS.—From funds appropriated pursuant to this section for each fiscal year beginning with fiscal year 1997, the Administrator shall reserve $2,000,000 to pay the costs of monitoring for unregulated contaminants under section 1445(a)(2)(D).

''(d) SMALL SYSTEM TECHNICAL ASSISTANCE.—

''(1) IN GENERAL.—Subject to paragraph (2), from funds appropriated pursuant to this section for each fiscal year for which the appropriation made pursuant to subsection (a) exceeds $800,000,000, the Administrator shall reserve to carry out section 1442(g) an amount that is equal to any amount by which the amount made available to carry out section 1442(g) is less than the amount referred to in the third sentence of section 1442(g).

''(2) MAXIMUM AMOUNT.—For each fiscal year, the amount reserved under paragraph (1) shall be not greater than an amount equal to the lesser of—

''(A) 2 percent of the funds appropriated pursuant to this section for the fiscal year; or

''(B) $10,000,000.''.

SEC. 4. SELECTION OF CONTAMINANTS; SCHEDULE.

(a) STANDARDS.—Section 1412(b) (42 U.S.C. 300g–1(b)) is amended by striking ''(b)(1)'' and all that follows through the end of paragraph (3) and inserting the following:

''(b) STANDARDS.—

''(1) IDENTIFICATION OF CONTAMINANTS FOR LISTING.—

''(A) GENERAL AUTHORITY.—The Administrator shall publish a maximum contaminant level goal and promulgate a national primary drinking water regulation for each contaminant (other than a contaminant referred to in paragraph (2) for which a national primary drinking water regulation has been promulgated as of the date of enactment of the Safe Drinking Water Act Amendments of 1995) if the Administrator determines, based on adequate data and appropriate peer-reviewed scientific information and an assessment of health risks, conducted in accordance with sound and objective scientific practices, that—

''(i) the contaminant may have an adverse effect on the health of persons; and

''(ii) the contaminant is known to occur or there is a substantial likelihood that the contaminant will occur in public water systems with a frequency and at levels of public health concern.

''(B) SELECTION AND LISTING OF CONTAMINANTS FOR CONSIDERATION.—

''(i) IN GENERAL.—Not later than July 1, [1996] *1997*, the Administrator (after consultation with the Secretary of Health and Human Services) shall publish and periodically, but not less often than every 5 years,

update a list of contaminants that are known or anticipated to occur in drinking water provided by public water systems and that may warrant regulation under this title.

''(ii) RESEARCH AND STUDY PLAN.—At such time as a list is published under clause (i), the Administrator shall describe available and needed information and research with respect to—

''(I) the health effects of the contaminants;

''(II) the occurrence of the contaminants in drinking water; and

''(III) treatment techniques and other means that may be feasible to control the contaminants.

''(iii) COMMENT.—The Administrator shall seek comment on each list and any research plan that is published from officials of State and local governments, operators of public water systems, the scientific community, and the general public.

''(C) DETERMINATION.—

''(i) IN GENERAL.—Except as provided in clause (ii), not later than July 1, 2001, and every 5 years thereafter, the Administrator shall take one of the following actions for not fewer than 5 contaminants:

''(I) Publish a determination that information available to the Administrator does not warrant the issuance of a national primary drinking water regulation.

''(II) Publish a determination that a national primary drinking water regulation is warranted based on information available to the Administrator, and proceed to propose a maximum contaminant level goal and national primary drinking water regulation not later than 2 years after the date of publication of the determination.

''(III) Propose a maximum contaminant level goal and national primary drinking water regulation.

''(ii) INSUFFICIENT INFORMATION.—If the Administrator determines that available information is insufficient to make a determination for a contaminant under clause (i), the Administrator may publish a determination to continue to study the contaminant. Not later than 5 years after the Administrator determines that further study is necessary for a contaminant pursuant to this clause, the Administrator shall make a determination under clause (i).

''(iii) ASSESSMENT.—The determinations under clause (i) shall be based on an assessment of—

''(I) the available scientific knowledge that is consistent with the requirements of paragraph (3)(A) and useful in determining the nature and extent of adverse effects on the health of persons that may occur due to the presence of the contaminant in drinking water;

''(II) information on the occurrence of the contaminant in drinking water; and

''(III) the treatment technologies, treatment techniques, or other means that may be feasible in reducing the contaminant in drinking water provided by public water systems.

''(iv) PRIORITIES.—In making determinations under this subparagraph, the Administrator shall give priority to those contaminants not currently regulated that are associated with the most serious adverse health effects and that present the greatest potential risk to the health of persons due to the presence of the contaminant in drinking water provided by public water systems.

''(v) REVIEW.—Each document setting forth the determination for a contaminant under clause (i) shall be available for public comment [before] *at such time as* the determination is published.

''(vi) JUDICIAL REVIEW.—Determinations made by the Administrator pursuant to clause (i)(I) shall be considered final agency actions for the purposes of section 1448. No determination under clause (i)(I) shall be set aside by a court pursuant to a review authorized under that section [or other law,] unless the court finds that the determination is arbitrary and capricious.

''(D) URGENT THREATS TO PUBLIC HEALTH.—The Administrator may promulgate an interim national primary drinking water regulation for a contaminant without listing the contaminant under subparagraph (B) or publishing a determination for the contaminant under subparagraph (C) to address an urgent threat to public health as determined by the Administrator after consultation with and written response to any comments provided by the Secretary of Health and Human Services, acting through the director of the Centers for Disease Control and Prevention or the director of the National Institutes of Health. A determination for any contaminant in accordance with subparagraph (C) subject to an interim regulation under this subparagraph shall be issued not later than 3 years after the date on which the regulation is promulgated and the regulation shall be repromulgated, or revised if appropriate, not later than 5 years after that date.

''(E) MONITORING DATA AND OTHER INFORMATION.—The Administrator may require, in accordance with section 1445(a)(2), the submission of monitoring data and other information necessary for the development of studies, research plans, or national primary drinking water regulations.

''(2) SCHEDULES AND DEADLINES.—

''(A) IN GENERAL.—In the case of the contaminants listed in the Advance Notice of Proposed Rulemaking published in volume 47, Federal Register, page 9352, and in volume 48, Federal Register, page 45502, the Administrator shall publish maximum contaminant level goals and promulgate national primary drinking water regulations—

''(i) not later than 1 year after June 19, 1986, for not fewer than 9 of the listed contaminants;

''(ii) not later than 2 years after June 19, 1986, for not fewer than 40 of the listed contaminants; and

''(iii) not later than 3 years after June 19, 1986, for the remainder of the listed contaminants.

''(B) SUBSTITUTION OF CONTAMINANTS.—If the Administrator identifies a drinking water contaminant the regulation of which, in the judgment of the Administrator, is more likely to be protective of public health (taking into account the schedule for regulation under subparagraph (A)) than a contaminant referred to in subparagraph (A), the Administrator may publish a maximum contaminant level goal and promulgate a national primary drinking water regulation for the identified contaminant in lieu of regulating the contaminant referred to in subparagraph (A). Substitutions may be made for not more than 7 contaminants referred to in subparagraph (A). Regulation of a contaminant identified under this subparagraph shall be in accordance with the schedule applicable to the contaminant for which the substitution is made.

''(C) DISINFECTANTS AND DISINFECTION BYPRODUCTS.—

''(i) INFORMATION COLLECTION RULE.—

''(I) IN GENERAL.—Not later than December 31, 1995, the Administrator shall, after notice and opportunity for public comment, promulgate an information collection rule to obtain information that will facilitate further revisions to the national primary drinking water regulation for disinfectants and disinfection byproducts, including information on microbial contaminants such as cryptosporidium.

''(II) EXTENSION.—The Administrator may extend the deadline under subclause (I) for up to 180 days if the Administrator determines that progress toward approval of an appropriate analytical method to screen for cryptosporidium is sufficiently advanced and approval is likely to be completed within the additional time period.

''(ii) ADDITIONAL DEADLINES.—The time intervals between promulgation of a final information collection rule, an Interim Enhanced Surface Water Treatment Rule, a Final Enhanced Surface Water Treatment Rule, a Stage I Disinfectants and Disinfection Byproducts Rule, and a Stage II Disinfectants and Disinfection Byproducts Rule shall be in accordance with the schedule published in volume 59, Federal Register, page 6361 (February 10, 1994), in table III.13 of the proposed Information Collection Rule. If a delay occurs with respect to the promulgation of any rule in the timetable established by this subparagraph, all subsequent rules shall be completed as expeditiously as practicable subject to agreement by all the parties to the negotiated rulemaking, but no later than a revised date that reflects the interval or intervals for the rules in the timetable.

''(D) PRIOR REQUIREMENTS.—The requirements of subparagraphs (C) and (D) of section 1412(b)(3) (as in effect before the amendment made by section 4(a) of the Safe Drinking Water Act Amendments of 1995), and any obligation to promulgate regulations pursuant to such subparagraphs not promulgated as of the date of enactment of the Safe Drinking Water Act Amendments of 1995, are superseded by this paragraph and paragraph (1).''.

(b) CONFORMING AMENDMENTS.—

(1) Section 1412(a)(3) (42 U.S.C. 300g–1(a)(3)) is amended by striking ''paragraph (1), (2), or (3) of subsection (b)'' each place it appears and inserting ''paragraph (1) or (2) of subsection (b)''.

(2) Section 1415(d) (42 U.S.C. 300g–4(d)) is amended by striking ''section 1412(b)(3)'' and inserting ''section 1412(b)(7)(A)''.

SEC. 5. RISK ASSESSMENT, MANAGEMENT, AND COMMUNICATION.

Section 1412(b) (42 U.S.C. 300g–1(b)) (as amended by section 4) is further amended by inserting after paragraph (2) the following:

''(3) RISK ASSESSMENT, MANAGEMENT AND COMMUNICATION.—

''(A) USE OF SCIENCE IN DECISIONMAKING.—In carrying out this title, the Administrator shall use—

''(i) the best available, peer-reviewed science and supporting studies conducted in accordance with sound and objective scientific practices; and

''(ii) data collected by accepted methods or best available methods (if the reliability of the method and the nature of the decision justifies use of the data).

''(B) PUBLIC INFORMATION.—In carrying out this section, the Administrator shall ensure that the presentation of information on public health effects is comprehensive, informative and understandable. The Administrator shall, in a document made available to the public in support of a regulation promulgated under this section, specify, to the extent practicable—

''(i) each population addressed by any estimate of public health effects;

''(ii) the expected risk or central estimate of risk for the specific populations;

''(iii) each appropriate upper-bound or lower-bound estimate of risk;

''(iv) each uncertainty identified in the process of the assessment of public health effects and research that would assist in resolving the uncertainty; and

''(v) peer-reviewed studies known to the Administrator that support, are directly relevant to, or fail to support any estimate of public health effects and the methodology

used to reconcile inconsistencies in the scientific data.

''(C) HEALTH RISK REDUCTION AND COST ANALYSIS.—

''(i) MAXIMUM CONTAMINANT LEVELS.—Not later than 90 days prior to proposing any national primary drinking water regulation that includes a maximum contaminant level, the Administrator shall, with respect to a maximum contaminant level that would be considered in accordance with paragraph (4) in a proposed regulation and each alternative maximum contaminant level that would be considered in a proposed regulation pursuant to paragraph (5) or (6)(A), publish, seek public comment on, and use for the purposes of paragraphs (4), (5), and (6) an analysis of—

''(I) the health risk reduction benefits (including non-quantifiable health benefits identified and described by the Administrator, except that such benefits shall not be used by the Administrator for purposes of determining whether a maximum contaminant level is or is not justified unless there is a factual basis in the rulemaking record to conclude that such benefits are likely to occur) expected as the result of treatment to comply with each level;

''(II) the health risk reduction benefits (including non-quantifiable health benefits identified and described by the Administrator, except that such benefits shall not be used by the Administrator for purposes of determining whether a maximum contaminant level is or is not justified unless there is a factual basis in the rulemaking record to conclude that such benefits are likely to occur) expected from reductions in co-occurring contaminants that may be attributed solely to compliance with the maximum contaminant level, excluding benefits resulting from compliance with other proposed or promulgated regulations;

''(III) the costs (including non-quantifiable costs identified and described by the Administrator, except that such costs shall not be used by the Administrator for purposes of determining whether a maximum contaminant level is or is not justified unless there is a factual basis in the rulemaking record to conclude that such costs are likely to occur) expected solely as a result of compliance with the maximum contaminant level, including monitoring, treatment, and other costs and excluding costs resulting from compliance with other proposed or promulgated regulations;

''(IV) the incremental costs and benefits associated with each alternative maximum contaminant level considered;

''(V) the effects of the contaminant on the general population and on groups within the general population such as infants, children, pregnant women, the elderly, individuals with a history of serious illness, or other subpopulations that are identified as likely to be at greater risk of adverse health effects due to exposure to contaminants in drinking water than the general population;

''(VI) any increased health risk that may occur as the result of compliance, including risks associated with co-occurring contaminants; and

''(VII) other relevant factors, including the quality and extent of the information, the uncertainties in the analysis supporting subclauses (I) through (VI), and factors with respect to the degree and nature of the risk.

''(ii) TREATMENT TECHNIQUES.—Not later than 90 days prior to proposing a national primary drinking water regulation that includes a treatment technique in accordance with paragraph (7)(A), the Administrator shall publish and seek public comment on an analysis of the health risk reduction benefits and costs likely to be experienced as the result of compliance with the treatment technique and alternative treatment techniques that would be considered in a proposed regulation, taking into account, as appropriate, the factors described in clause (i).

''(iii) APPROACHES TO MEASURE AND VALUE BENEFITS.—The Administrator may identify valid approaches for the measurement and valuation of benefits under this subparagraph, including approaches to identify consumer willingness to pay for reductions in health risks from drinking water contaminants.

''(iv) FORM OF NOTICE.—Whenever a national primary drinking water regulation is expected to result in compliance costs greater than $75,000,000 per year, the Administrator shall provide the notice required by clause (i) or (ii) through an advanced notice of proposed rulemaking.

''(v) AUTHORIZATION.—There are authorized to be appropriated to the Administrator, acting through the Office of Ground Water and Drinking Water, to conduct studies, assessments, and analyses in support of regulations or the development of methods, $35,000,000 for each of fiscal years 1996 through 2003.''.

SEC. 6. STANDARD-SETTING; REVIEW OF STANDARDS.

(a) IN GENERAL.—Section 1412(b) (42 U.S.C. 300g–1(b)) is amended—

(1) in paragraph (4)—

(A) by striking ''(4) Each'' and inserting the following:

''(4) GOALS AND STANDARDS.—

''(A) MAXIMUM CONTAMINANT LEVEL GOALS.—Each'';

(B) in subparagraph (A) (as so designated), by inserting after the first sentence the following: ''The maximum contaminant level goal for contaminants that are known or likely to cause cancer in humans may be set at a level other than zero, if the Administrator determines, based on the best available, peer-reviewed science, that there is a threshold level below which there is unlikely to be any increase in cancer risk and the Administrator sets the maximum contaminant level goal at that level with an adequate margin of safety.'';

(C) in the last sentence—

(i) by striking ''Each national'' and inserting the following:

''(B) MAXIMUM CONTAMINANT LEVELS.— Except as provided in paragraphs (5) and (6), each national''; and

(ii) by striking ''maximum level'' and inserting ''maximum contaminant level''; and

(D) by adding at the end the following:

''(C) DETERMINATION.—At the time the Administrator proposes a national primary drinking water regulation under this paragraph, the Administrator shall publish a determination as to whether the benefits of the maximum contaminant level justify, or do not justify, the costs based on the analysis conducted under paragraph (3)(C).'';

(2) by striking ''(5) For the'' and inserting the following:

''(D) DEFINITION OF FEASIBLE.—For the'';

(3) in the second sentence of paragraph (4)(D) (as so designated), by striking ''paragraph (4)'' and inserting ''this paragraph'';

(4) by striking ''(6) Each national'' and inserting the following:

''(E) FEASIBLE TECHNOLOGIES.—Each national'';

(5) in paragraph (4)(E) (as so designated), by striking ''this paragraph'' and inserting ''this subsection''; and

(6) by inserting after paragraph (4) (as so amended) the following:

''(5) ADDITIONAL HEALTH RISK CONSIDERATIONS.—

''(A) IN GENERAL.—Notwithstanding paragraph (4), the Administrator may establish a maximum contaminant level for a contaminant at a level other than the feasible level, if the technology, treatment techniques, and other means used to determine the feasible level would result in an increase in the health risk from drinking water by—

''(i) increasing the concentration of other contaminants in drinking water; or

''(ii) interfering with the efficacy of drinking water treatment techniques or processes that are used to comply with other national primary drinking water regulations.

''(B) ESTABLISHMENT OF LEVEL.—If the Administrator establishes a maximum contaminant level or levels or requires the use of treatment techniques for any contaminant or contaminants pursuant to the authority of this paragraph—

''(i) the level or levels or treatment techniques shall minimize the overall risk of adverse health effects by balancing the risk from the contaminant and the risk from other contaminants the concentrations of which may be affected by the use of a treatment technique or process that would be employed to attain the maximum contaminant level or levels; and

''(ii) the combination of technology, treatment techniques, or other means required to meet the level or levels shall not be more stringent than is feasible (as defined in paragraph (4)(D)).

''(6) ADDITIONAL HEALTH RISK REDUCTION AND COST CONSIDERATIONS.—

''(A) IN GENERAL.—Notwithstanding paragraph (4), if the Administrator determines based on an analysis conducted under paragraph (3)(C) that the benefits of a maximum contaminant level promulgated in accordance with paragraph (4) would not justify the costs of complying with the level, the Administrator may, after notice and opportunity for public comment, promulgate a maximum contaminant level for the contaminant that maximizes health risk reduction benefits at a cost that is justified by the benefits.

''(B) EXCEPTION.—The Administrator shall not use the authority of this paragraph to promulgate a maximum contaminant level for a contaminant, if the benefits of compliance with a national primary drinking water regulation for the contaminant that would be promulgated in accordance with paragraph (4) experienced by—

''(i) persons served by large public water systems; and

''(ii) persons served by such other systems as are unlikely, based on information provided by the States, to receive a variance under section 1415(e);

would justify the costs to the systems of complying with the regulation. This subparagraph shall not apply if the contaminant is found almost exclusively in small systems (as defined in section 1415(e)).

''(C) DISINFECTANTS AND DISINFECTION BYPRODUCTS.—The Administrator may not use the authority of this paragraph to establish a maximum contaminant level in a Stage I or Stage II national primary drinking water regulation for contaminants that are disinfectants or disinfection byproducts (as described in paragraph (2)), or to establish a maximum contaminant level or treatment technique requirement for the control of cryptosporidium. The authority of this paragraph may be used to establish regulations for the use of disinfection by systems relying on ground water sources as required by paragraph (8).

''(D) JUDICIAL REVIEW.—A determination by the Administrator that the benefits of a maximum contaminant level or treatment requirement justify or do not justify the costs of complying with the level shall be reviewed by the court pursuant to section 1448 only as part of a review of a final national primary drinking water regulation that has

been promulgated based on the determination and shall not be set aside by the court under that section, unless the court finds that the determination is arbitrary and capricious.''.

(b) DISINFECTANTS AND DISINFECTION BYPRODUCTS.—The Administrator of the Environmental Protection Agency may use the authority of section 1412(b)(5) of the Public Health Service Act (as amended by subsection (a)) to promulgate the Stage I rulemaking for disinfectants and disinfection byproducts as proposed in volume 59, Federal Register, page 38668 (July 29, 1994). Unless new information warrants a modification of the proposal as provided for in the ''Disinfection and Disinfection Byproducts Negotiated Rulemaking Committee Agreement'', nothing in such section shall be construed to require the Administrator to modify the provisions of the rulemaking as proposed.

(c) REVIEW OF STANDARDS.—Section 1412(b) (42 U.S.C. 300g–1(b)) is amended by striking paragraph (9) and inserting the following:

''(9) REVIEW AND REVISION.—The Administrator shall, not less often than every 6 years, review and revise, as appropriate, each national primary drinking water regulation promulgated under this title. Any revision of a national primary drinking water regulation shall be promulgated in accordance with this section, except that each revision shall maintain or provide for greater protection of the health of persons.''.

SEC. 7. ARSENIC.

Section 1412(b) (42 U.S.C. 300g–1(b)) is amended by adding at the end the following:

''(12) ARSENIC.—

''(A) SCHEDULE AND STANDARD.—Notwithstanding paragraph (2), the Administrator shall promulgate a national primary drinking water regulation for arsenic in accordance with the schedule established by this paragraph and pursuant to this subsection.

''(B) RESEARCH PLAN.—Not later than 180 days after the date of enactment of this paragraph, the Administrator shall develop a comprehensive plan for research in support of drinking water rulemaking to reduce the uncertainty in assessing health risks associated with exposure to low levels of arsenic. The Administrator shall consult with the Science Advisory Board established by section 8 of the Environmental Research, Development, and Demonstration Act of 1978 (42 U.S.C. 4365), other Federal agencies, and interested public and private entities.

''(C) RESEARCH PROJECTS.—The Administrator shall carry out the research plan, taking care to avoid duplication of other research in progress. The Administrator may enter into cooperative research agreements with other Federal agencies, State and local governments, and other interested public and private entities to carry out the research plan.

''(D) ASSESSMENT.—Not later than 3½ years after the date of enactment of this paragraph, the Administrator shall review the progress of the research to determine whether the health risks associated with exposure to low levels of arsenic are sufficiently well understood to proceed with a national primary drinking water regulation. The Administrator shall consult with the Science Advisory Board, other Federal agencies, and other interested public and private entities as part of the review.

''(E) PROPOSED REGULATION.—The Administrator shall propose a national primary drinking water regulation for arsenic not later than January 1, 2000.

''(F) FINAL REGULATION.—Not later than January 1, 2001, after notice and opportunity for public comment, the Administrator shall promulgate a national primary drinking water regulation for arsenic.''.

SEC. 8. RADON.

Section 1412(b) (42 U.S.C. 300g–1(b)) (as amended by section 7) is further amended by adding at the end the following:

''(13) RADON IN DRINKING WATER.—

''(A) REGULATION.—Notwithstanding paragraph (2), not later than 180 days after the date of enactment of this paragraph, the Administrator shall promulgate a national primary drinking water regulation for radon.

''(B) MAXIMUM CONTAMINANT LEVEL.—Notwithstanding any other provision of law, the regulation shall provide for a maximum contaminant level for radon of 3,000 picocuries per liter.

''(C) REVISION.—

''(i) IN GENERAL.—Subject to clause (ii), a revision to the regulation promulgated under subparagraph (A) may be made pursuant to this subsection. *The revision may include a maximum contaminant level less stringent than 3,000 picocuries per liter as provided in paragraphs (4) and (9) or a maximum contaminant level more stringent than 3,000 picocuries per liter as provided in clause (ii).*

''(ii) MAXIMUM CONTAMINANT LEVEL.—

''(I) CRITERIA FOR REVISION.—The Administrator shall not revise the maximum contaminant level for radon to a more stringent level than the level established under subparagraph (B) unless—

''(aa) the revision is made to reflect consideration of risks from the ingestion of radon in drinking water and episodic uses of drinking water;

''(bb) the revision is supported by peer-reviewed scientific studies conducted in accordance with sound and objective scientific practices; and

''(cc) based on the studies, the National Academy of Sciences and the Science Advisory Board, established by section 8 of the Environmental Research, Development, and Demonstration Act of 1978 (42 U.S.C. 4365), consider a revision of the maximum contaminant level to be appropriate.

''(II) AMOUNT OF REVISION.—If the Administrator determines to revise the maximum contaminant level for radon in accordance with subclause (I), the maximum contaminant level shall be revised to a level that is no more stringent than is necessary to reduce risks to human health from radon in drinking water to a level that is equivalent to risks to human health from radon in outdoor air based on the national average concentration of radon in outdoor air.''.

SEC. 9. SULFATE.

Section 1412(b) (42 U.S.C. 300g–1(b)) (as amended by section 8) is further amended by adding at the end the following:

''(14) SULFATE.—

''(A) IN GENERAL.—In the absence of scientific evidence suggesting new or more serious health effects than are suggested by the evidence available on the date of enactment of this paragraph, for the purposes of promulgation of a national primary drinking water regulation for sulfate, notwithstanding the requirements of paragraphs (4) and (7), the Administrator shall specify in the regulation—

''(i) a requirement for best technology or other means under this subsection; and

''(ii) requirements for public notification and options for the provision of alternative water supplies to populations at risk as an alternative means of complying with the regulation.

''(B) SCHEDULE.—Notwithstanding paragraph (2), the regulation referred to in subparagraph (A) shall be promulgated not later than 2 years after the date of enactment of this paragraph.

''(C) AUTHORITY.—Paragraph (6) shall apply to the national primary drinking water regulation for sulfate first promulgated after the date of enactment of this paragraph only if the Administrator reproposes the national primary drinking water regulation for sulfate after that date based on evidence suggesting new or more serious health effects as described in subparagraph (A).

''(D) EFFECT ON OTHER LAWS.—

''(i) FEDERAL LAWS.—Notwithstanding part C, section 311 of the Federal Water Pollution Control Act (33 U.S.C. 1321), subtitle C or D of the Solid Waste Disposal Act (42 U.S.C. 6921 et seq.), or section 107 or 121(d) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9607 and 9621(d)), no national primary drinking water regulation for sulfate shall be—

''(I) used as a standard for determining compliance with any provision of any law other than this subsection;

''(II) used as a standard for determining appropriate cleanup levels or whether cleanup should be undertaken with respect to any facility or site;

''(III) considered to be an applicable or relevant and appropriate requirement for any such cleanup; or

''(IV) used for the purpose of defining injury to a natural resource;

unless the Administrator, by rule and after notice and opportunity for public comment, determines that the regulation is appropriate for a use described in subclause (I), (II), (III), or (IV).

''(ii) STATE LAWS.—This subparagraph shall not affect any requirement of State law, including the applicability of any State standard similar to the regulation published under this paragraph as a standard for any cleanup action, compliance action, or natural resource damage action taken pursuant to such a law.''.

SEC. 10. FILTRATION AND DISINFECTION.

(a) FILTRATION TECHNOLOGY FOR SMALL SYSTEMS.—Section 1412(b)(7)(C) (42 U.S.C. 300g–1(b)(7)(C)) is amended by adding at the end the following:

''(v) FILTRATION TECHNOLOGY FOR SMALL SYSTEMS.—At the same time as the Administrator proposes an Interim Enhanced Surface Water Treatment Rule pursuant to paragraph (2)(C)(ii), the Administrator shall propose a regulation that describes treatment techniques that meet the requirements for filtration pursuant to this subparagraph and are feasible for community water systems serving a population of 3,300 or fewer and noncommunity water systems.''.

(b) GROUND WATER DISINFECTION.—The first sentence of section 1412(b)(8) (42 U.S.C. 300g–1(b)(8)) is amended—

(1) by striking ''Not later than 36 months after the enactment of the Safe Drinking Water Act Amendments of 1986, the Administrator shall propose and promulgate'' and inserting [''At the time that] *At any time after the end of the 3-year period that begins on the date of enactment of the Safe Drinking Water Act Amendments of 1995 but not later than the date on which* the Administrator promulgates a Stage II rulemaking for disinfectants and disinfection byproducts (as described in paragraph (2)), the Administrator shall also promulgate''; and

(2) by striking the period at the end and inserting the following: '', including surface water systems and, as necessary, ground water systems. After consultation with the States, the Administrator shall (as part of the regulations) promulgate criteria that the Administrator, or a State that has primary enforcement responsibility under section 1413, shall apply to determine whether disinfection shall be required as a treatment technique for any public water system served by ground water.''.

SEC. 11. EFFECTIVE DATE FOR REGULATIONS.

Section 1412(b) (42 U.S.C. 300g–1(b)) is amended by striking paragraph (10) and inserting the following:

''(10) EFFECTIVE DATE.—A national primary drinking water regulation promulgated under this section shall take effect on the date that is 3 years after the date on which the regulation is promulgated unless the Administrator determines that an earlier date is practicable, except that the Administrator, or a State in the case of an individual system, may allow up to 2 additional years to comply with a maximum contaminant level or treatment technique if the Administrator or State determines that additional time is necessary for capital improvements.''.

SEC. 12. TECHNOLOGY AND TREATMENT TECHNIQUES; TECHNOLOGY CENTERS.

(a) SYSTEM TREATMENT TECHNOLOGIES.—Section 1412(b) (42 U.S.C. 300g–1(b)) (as amended by section 9) is further amended by adding at the end the following:

''(15) SYSTEM TREATMENT TECHNOLOGIES.—

''(A) GUIDANCE OR REGULATIONS.—

''(i) IN GENERAL.—At the same time as the Administrator promulgates a national primary drinking *water* regulation pursuant to this section, the Administrator shall issue guidance or regulations describing all treatment technologies for the contaminant that is the subject of the regulation that are feasible with the use of best technology, treatment techniques, or other means that the Administrator finds, after examination for efficacy under field conditions and not solely under laboratory conditions, are available taking cost into consideration for public water systems serving—

''(I) a population of 10,000 or fewer but more than 3,300;

''(II) a population of 3,300 or fewer but more than 500; and

''(III) a population of 500 or fewer but more than 25.

''(ii) CONTENTS.—The guidance or regulations shall identify the effectiveness of the technology, the cost of the technology, and other factors related to the use of the technology, including requirements for the quality of source water to ensure adequate protection of human health, considering removal efficiencies of the technology, and installation and operation and maintenance requirements for the technology.

''(iii) LIMITATION.—The Administrator shall not issue guidance or regulations for a technology under this paragraph unless the technology adequately protects human health, considering the expected useful life of the technology and the source waters available to systems for which the technology is considered to be feasible.

''(B) REGULATIONS AND GUIDANCE.—Not later than 2 years after the date of enactment of this paragraph and after consultation with the States, the Administrator shall issue guidance or regulations under subparagraph (A) for each national primary drinking water regulation promulgated prior to the date of enactment of this paragraph for which a variance may be granted under section 1415(e). The Administrator may, at any time after a national primary drinking water regulation has been promulgated, issue guidance or regulations describing additional or new or innovative treatment technologies that meet the requirements of subparagraph (A) for public water systems described in subparagraph (A)(i) that are subject to the regulation.

''(C) NO SPECIFIED TECHNOLOGY.—A description under subparagraph (A) of the best technology or other means available shall not be considered to require or authorize that the specified technology or other means be used for the purpose of meeting the requirements of any national primary drinking water regulation.''.

(b) TECHNOLOGIES AND TREATMENT TECHNIQUES FOR SMALL SYSTEMS.—Section 1412(b)(4)(E) (as amended by section 6(a)) is further amended by adding at the end the following: ''The Administrator shall include in the list any technology, treatment technique, or other means that is feasible for small public water systems serving—

''(i) a population of 10,000 or fewer but more than 3,300;

''(ii) a population of 3,300 or fewer but more than 500; and

''(iii) a population of 500 or fewer but more than 25;

and that achieves compliance with the maximum contaminant level, including packaged or modular systems and point-of-entry treatment units that are controlled by the public water system to ensure proper operation and maintenance and compliance with the maximum contaminant level and equipped with mechanical warnings to ensure that customers are automatically notified of operational problems.''.

(c) AVAILABILITY OF INFORMATION ON SMALL SYSTEM TECHNOLOGIES.—Section 1445 (42 U.S.C. 300j–4) is amended by adding at the end the following:

''(g) AVAILABILITY OF INFORMATION ON SMALL SYSTEM TECHNOLOGIES.—For purposes of paragraphs (4)(E) and (15) of section 1412(b), the Administrator may request information on the characteristics of commercially available treatment systems and technologies, including the effectiveness and performance of the systems and technologies under various operating conditions. The Administrator may specify the form, content, and date by which information shall be submitted by manufacturers, States, and other interested persons for the purpose of considering the systems and technologies in the development of regulations or guidance under paragraph (4)(E) or (15) of section 1412(b).''.

(d) SMALL WATER SYSTEMS TECHNOLOGY CENTERS.—Section 1442 (42 U.S.C. 300j–1) is amended by adding at the end the following:

''(h) SMALL PUBLIC WATER SYSTEMS TECHNOLOGY ASSISTANCE CENTERS.—

''(1) GRANT PROGRAM.—The Administrator is authorized to make grants to institutions of higher learning to establish and operate not fewer than 5 small public water system technology assistance centers in the United States.

''(2) RESPONSIBILITIES OF THE CENTERS.—The responsibilities of the small public water system technology assistance centers established under this subsection shall include the conduct of research, training, and technical assistance relating to the information, performance, and technical needs of small public water systems or public water systems that serve Indian Tribes.

''(3) APPLICATIONS.—Any institution of higher learning interested in receiving a grant under this subsection shall submit to the Administrator an application in such form and containing such information as the Administrator may require by regulation.

''(4) SELECTION CRITERIA.—The Administrator shall select recipients of grants under this subsection on the basis of the following criteria:

''(A) The small public water system technology assistance center shall be located in a State that is representative of the needs of the region in which the State is located for addressing the drinking water needs of rural small communities or Indian Tribes.

''(B) The grant recipient shall be located in a region that has experienced problems with rural water supplies.

''(C) There is available to the grant recipient for carrying out this subsection demonstrated expertise in water resources research, technical assistance, and training.

''(D) The grant recipient shall have the capability to provide leadership in making national and regional contributions to the solution of both long-range and intermediate-range rural water system technology management problems.

''(E) The grant recipient shall have a demonstrated interdisciplinary capability with expertise in small public water system technology management and research.

''(F) The grant recipient shall have a demonstrated capability to disseminate the results of small public water system technology research and training programs through an interdisciplinary continuing education program.

''(G) The projects that the grant recipient proposes to carry out under the grant are necessary and appropriate.

''(H) The grant recipient has regional support beyond the host institution.

''(I) The grant recipient shall include the participation of water resources research institutes established under section 104 of the Water Resources Research Act of 1984 (42 U.S.C. 10303).

''(5) ALASKA.—For purposes of this subsection, the State of Alaska shall be considered to be a region.

''(6) CONSORTIA OF STATES.—At least 2 of the grants under this subsection shall be made to consortia of States with low population densities. In this paragraph, the term 'consortium of States with low population densities' means a consortium of States, each State of which has an average population density of less than 12.3 persons per square mile, based on data for 1993 from the Bureau of the Census.

''(7) ADDITIONAL CONSIDERATIONS.—At least one center established under this subsection shall focus primarily on the development and evaluation of new technologies and new combinations of existing technologies that are likely to provide more reliable or lower cost options for providing safe drinking water. This center shall be located in a geographic region of the country with a high density of small systems, at a university with an established record of developing and piloting small treatment technologies in cooperation with industry, States, communities, and water system associations.

''(8) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to make grants under this subsection $10,000,000 for each of fiscal years 1995 through 2003.''.

SEC. 13. VARIANCES AND EXEMPTIONS.

(a) TECHNOLOGY AND TREATMENT TECHNIQUES FOR SYSTEMS ISSUED VARIANCES.—The second sentence of section 1415(a)(1)(A) (42 U.S.C. 300g–4(a)(1)(A)) is amended—

(1) by striking ''only be issued to a system after the system's application of'' and inserting ''be issued to a system on condition that the system install''; and

(2) by inserting before the period at the end the following: '', and based upon an evaluation satisfactory to the State that indicates that alternative sources of water are not reasonably available to the system''.

(b) EXEMPTIONS.—Section 1416 (42 U.S.C. 300g–5) is amended—

(1) in subsection (a)(1)—

(A) by inserting after ''(which may include economic factors'' the following: '', including qualification of the public water system as a system serving a disadvantaged community pursuant to section 1473(e)(1)''; and

(B) by inserting after ''treatment technique requirement,'' the following: ''or to implement measures to develop an alternative source of water supply,'';

(2) in subsection (b)(1)(A)—

(A) by striking ''(including increments of progress)'' and inserting ''(including increments of progress or measures to develop an alternative source of water supply)''; and

(B) by striking ''requirement and treatment'' and inserting ''requirement or treatment''; and

(3) in subsection (b)(2)—

(A) by striking ''(except as provided in subparagraph (B))'' in subparagraph (A) and all that follows through ''3 years after the date of the issuance of the exemption if'' in subparagraph (B) and inserting the following: ''not later than 3 years after the otherwise applicable compliance date established in section 1412(b)(10).

''(B) No exemption shall be granted unless'';

(B) in subparagraph (B)(i), by striking ''within the period of such exemption'' and inserting ''prior to the date established pursuant to section 1412(b)(10)'';

(C) in subparagraph (B)(ii), by inserting after ''such financial assistance'' the following: ''or assistance pursuant to part G, or any other Federal or State program is reasonably likely to be available within the period of the exemption'';

(D) in subparagraph (C)—

(i) by striking ''500 service connections'' and inserting ''a population of 3,300''; and

(ii) by inserting '', but not to exceed a total of 6 years,'' after ''for one or more additional 2-year periods''; and

(E) by adding at the end the following:

''(D) LIMITATION.—A public water system may not receive an exemption under this section if the system was granted a variance under section 1415(e).''.

SEC. 14. SMALL SYSTEMS; TECHNICAL ASSISTANCE.

(a) SMALL SYSTEM VARIANCES.—Section 1415 (42 U.S.C. 300g–4) is amended by adding at the end the following:

''(e) SMALL SYSTEM VARIANCES.—

''(1) IN GENERAL.—The Administrator (or a State with primary enforcement responsibility for public water systems under section 1413) may grant to a public water system serving a population of 10,000 or fewer (referred to in this subsection as a 'small system') a variance under this subsection for compliance with a requirement specifying a maximum contaminant level or treatment technique contained in a national primary drinking water regulation, if the variance meets each requirement of this subsection.

''(2) AVAILABILITY OF VARIANCES.—A small system may receive a variance under this subsection if the system installs, operates, and maintains, in accordance with guidance or regulations issued by the Administrator, treatment technology that is feasible for small systems as determined by the Administrator pursuant to section 1412(b)(15).

''(3) CONDITIONS FOR GRANTING VARIANCES.—A variance under this subsection shall be available only to a system—

''(A) that cannot afford to comply, in accordance with affordability criteria established by the Administrator (or the State in the case of a State that has primary enforcement responsibility under section 1413), with a national primary drinking water regulation, including compliance through—

''(i) treatment;

''(ii) alternative source of water supply; or

''(iii) restructuring or consolidation (unless the Administrator (or the State in the case of a State that has primary enforcement responsibility under section 1413) makes a written determination that restructuring or consolidation is not feasible or appropriate based on other specified public policy considerations); and

''(B) for which the Administrator (or the State in the case of a State that has primary enforcement responsibility under section 1413) determines that the terms of the variance ensure adequate protection of human health, considering the quality of the source water for the system and the removal efficiencies and expected useful life of the treatment technology required by the variance.

''(4) APPLICATIONS.—An application for a variance for a national primary drinking water regulation under this subsection shall be submitted to the Administrator (or the State in the case of a State that has primary enforcement responsibility under section 1413) not later than the date that is the later of—

''(A) 3 years after the date of enactment of this subsection; or

''(B) 1 year after the compliance date of the national primary drinking water regulation as established under section 1412(b)(10) for which a variance is requested.

''(5) VARIANCE REVIEW AND DECISION.—

''(A) TIMETABLE.—The Administrator (or the State in the case of a State that has primary enforcement responsibility under section 1413) shall grant or deny a variance not later than 1 year after the date of receipt of the application.

''(B) PENALTY MORATORIUM.—Each public water system that submits a timely application for a variance under this subsection shall not be subject to a penalty in an enforcement action under section 1414 for a violation of a maximum contaminant level or treatment technique in the national primary drinking water regulation with respect to which the variance application was submitted prior to the date of a decision to grant or deny the variance.

''(6) COMPLIANCE SCHEDULES.—

''(A) VARIANCES.—A variance granted under this subsection shall require compliance with the conditions of the variance not later than 3 years after the date on which the variance is granted, except that the Administrator (or the State in the case of a State that has primary enforcement responsibility under section 1413) may allow up to 2 additional years to comply with a treatment technique, secure an alternative source of water, or restructure if the Administrator (or the State) determines that additional time is necessary for capital improvements, or to allow for financial assistance provided pursuant to part G or any other Federal or State program.

''(B) DENIED APPLICATIONS.—If the Administrator (or the State in the case of a State that has primary enforcement responsibility under section 1413) denies a variance application under this subsection, the public water system shall come into compliance with the requirements of the national primary drinking water regulation for which the variance was requested not later than 4 years after the date on which the national primary drinking water regulation was promulgated.

''(7) DURATION OF VARIANCES.—

''(A) IN GENERAL.—The Administrator (or the State in the case of a State that has primary enforcement responsibility under section 1413) shall review each variance granted under this subsection not less often than every 5 years after the compliance date established in the variance to determine whether the system remains eligible for the variance and is conforming to each condition of the variance.

''(B) REVOCATION OF VARIANCES.—The Administrator (or the State in the case of a State that has primary enforcement responsibility under section 1413) shall revoke a variance in effect under this subsection if the Administrator (or the State) determines that—

''(i) the system is no longer eligible for a variance;

''(ii) the system has failed to comply with any term or condition of the variance, other than a reporting or monitoring requirement, unless the failure is caused by circumstances outside the control of the system; or

''(iii) the terms of the variance do not ensure adequate protection of human health, considering the quality of source water available to the system and the removal efficiencies and expected useful life of the treatment technology required by the variance.

''(8) INELIGIBILITY FOR VARIANCES.—A variance shall not be available under this subsection for—

''(A) any maximum contaminant level or treatment technique for a contaminant with respect to which a national primary drinking water regulation was promulgated prior to January 1, 1986; or

''(B) a national primary drinking water regulation for a microbial contaminant (including a bacterium, virus, or other organism) or an indicator or treatment technique for a microbial contaminant.

''(9) REGULATIONS AND GUIDANCE.—

''(A) IN GENERAL.—Not later than 2 years after the date of enactment of this subsection and in consultation with the States, the Administrator shall promulgate regulations for variances to be granted under this subsection. The regulations shall, at a minimum, specify—

''(i) procedures to be used by the Administrator or a State to grant or deny variances, including requirements for notifying the Administrator and consumers of the public water system applying for a variance and requirements for a public hearing on the variance before the variance is granted;

''(ii) requirements for the installation and proper operation of treatment technology that is feasible (pursuant to section 1412(b)(15)) for small systems and the financial and technical capability to operate the treatment system, including operator training and certification;

''(iii) eligibility criteria for a variance for each national primary drinking water regulation, including requirements for the quality of the source water (pursuant to section 1412(b)(15)(A)); and

''(iv) information requirements for variance applications.

''(B) AFFORDABILITY CRITERIA.—Not later than 18 months after the date of enactment of the Safe Drinking Water Act Amendments of 1995, the Administrator, in consultation with the States and the Rural Utilities Service of the Department of Agriculture, shall publish information to assist the States in developing affordability criteria. The affordability criteria shall be reviewed by the States not less often than every 5 years to determine if changes are needed to the criteria.

''(10) REVIEW BY THE ADMINISTRATOR.—

''(A) IN GENERAL.—The Administrator shall periodically review the program of each State that has primary enforcement responsibility for public water systems under section 1413 with respect to variances to determine whether the variances granted by the State comply with the requirements of this subsection. With respect to affordability, the determination of the Administrator shall be limited to whether the variances granted by the State comply with the affordability criteria developed by the State.

''(B) NOTICE AND PUBLICATION.—If the Administrator determines that variances granted by a State are not in compliance with affordability criteria developed by the State and the requirements of this subsection, the Administrator shall notify the State in writing of the deficiencies and make public the determination.

''(C) OBJECTIONS TO VARIANCES.—

''(i) BY THE ADMINISTRATOR.—The Administrator may review and object to any variance proposed to be granted by a State, if

the objection is communicated to the State not later than 90 days after the State proposes to grant the variance. If the Administrator objects to the granting of a variance, the Administrator shall notify the State in writing of each basis for the objection and propose a modification to the variance to resolve the concerns of the Administrator. The State shall make the recommended modification or respond in writing to each objection. If the State issues the variance without resolving the concerns of the Administrator, the Administrator may overturn the State decision to grant the variance if the Administrator determines that the State decision does not comply with this subsection.

''(ii) PETITION BY CONSUMERS.—Not later than 30 days after a State with primary enforcement responsibility for public water systems under section 1413 proposes to grant a variance for a public water system, any person served by the system may petition the Administrator to object to the granting of a variance. The Administrator shall respond to the petition not later than 60 days after the receipt of the petition. The State shall not grant the variance during the 60-day period. The petition shall be based on comments made by the petitioner during public review of the variance by the State.''.

(b) TECHNICAL ASSISTANCE.—Section 1442(g) (42 U.S.C. 300j–1(g)) is amended—

(1) in the second sentence, by inserting ''and multi-State regional technical assistance'' after '''circuit-rider'''; and

(2) by striking the third sentence and inserting the following: ''The Administrator shall ensure that funds made available for technical assistance pursuant to this subsection are allocated among the States equally. Each nonprofit organization receiving assistance under this subsection shall consult with the State in which the assistance is to be expended or otherwise made available before using the assistance to undertake activities to carry out this subsection. There are authorized to be appropriated to carry out this subsection $15,000,000 for each of fiscal years 1992 through 2003.''.

SEC. 15. CAPACITY DEVELOPMENT; FINANCE CENTERS.

Part B (42 U.S.C. 300g et seq.) is amended by adding at the end the following:

''CAPACITY DEVELOPMENT

''SEC. 1418. (a) STATE AUTHORITY FOR NEW SYSTEMS.—Each State shall obtain the legal authority or other means to ensure that all new community water systems and new nontransient, noncommunity water systems commencing operation after October 1, 1998, demonstrate technical, managerial, and financial capacity with respect to each national primary drinking water regulation in effect, or likely to be in effect, on the date of commencement of operations.

''(b) SYSTEMS IN SIGNIFICANT NONCOMPLIANCE.—

''(1) LIST.—Beginning not later than 1 year after the date of enactment of this section, each State shall prepare, periodically update, and submit to the Administrator a list of community water systems and nontransient, noncommunity water systems that have a history of significant noncompliance with this title (as defined in guidelines issued prior to the date of enactment of this section or any revisions of the guidelines that have been made in consultation with the States) and, to the extent practicable, the reasons for noncompliance.

''(2) REPORT.—Not later than 5 years after the date of enactment of this section and as part of the capacity development strategy of the State, each State shall report to the Administrator on the success of enforcement mechanisms and initial capacity development efforts in assisting the public water systems listed under paragraph (1) to improve technical, managerial, and financial capacity.

''(c) CAPACITY DEVELOPMENT STRATEGY.—

''(1) IN GENERAL.—Not later than 4 years after the date of enactment of this section, each State shall develop and implement a strategy to assist public water systems in acquiring and maintaining technical, managerial, and financial capacity.

''(2) CONTENT.—In preparing the capacity development strategy, the State shall consider, solicit public comment on, and include as appropriate—

''(A) the methods or criteria that the State will use to identify and prioritize the public water systems most in need of improving technical, managerial, and financial capacity;

''(B) a description of the institutional, regulatory, financial, tax, or legal factors at the Federal, State, or local level that encourage or impair capacity development;

''(C) a description of how the State will use the authorities and resources of this title or other means to—

''(i) assist public water systems in complying with national primary drinking water regulations;

''(ii) encourage the development of partnerships between public water systems to enhance the technical, managerial, and financial capacity of the systems; and

''(iii) assist public water systems in the training and certification of operators;

''(D) a description of how the State will establish a baseline and measure improvements in capacity with respect to national primary drinking water regulations and State drinking water law; and

''(E) an identification of the persons that have an interest in and are involved in the development and implementation of the capacity development strategy (including all appropriate agencies of Federal, State, and local governments, private and nonprofit public water systems, and public water system customers).

''(3) REPORT.—Not later than 2 years after the date on which a State first adopts a capacity development strategy under this subsection, and every 3 years thereafter, the head of the State agency that has primary responsibility to carry out this title in the State shall submit to the Governor a report that shall also be available to the public on the efficacy of the strategy and progress made toward improving the technical, managerial, and financial capacity of public water systems in the State.

''(d) FEDERAL ASSISTANCE.—

''(1) IN GENERAL.—The Administrator shall support the States in developing capacity development strategies.

''(2) INFORMATIONAL ASSISTANCE.—

''(A) IN GENERAL.—Not later than 180 days after the date of enactment of this section, the Administrator shall—

''(i) conduct a review of State capacity development efforts in existence on the date of enactment of this section and publish information to assist States and public water systems in capacity development efforts; and

''(ii) initiate a partnership with States, public water systems, and the public to develop information for States on recommended operator certification requirements.

''(B) PUBLICATION OF INFORMATION.—The Administrator shall publish the information developed through the partnership under subparagraph (A)(ii) not later than 18 months after the date of enactment of this section.

''(3) VARIANCES AND EXEMPTIONS.—Based on information obtained under subsection (c)(2)(B), the Administrator shall, as appropriate, modify regulations concerning variances and exemptions for small public water systems to ensure flexibility in the use of the variances and exemptions. Nothing in this paragraph shall be interpreted, construed, or applied to affect or alter the requirements of section 1415 or 1416.

''(4) PROMULGATION OF DRINKING WATER REGULATIONS.—In promulgating a national primary drinking water regulation, the Administrator shall include an analysis of the likely effect of compliance with the regulation on the technical, financial, and managerial capacity of public water systems.

''(5) GUIDANCE FOR NEW SYSTEMS.—Not later than 2 years after the date of enactment of this section, the Administrator shall publish guidance developed in consultation with the States describing legal authorities and other means to ensure that all new community water systems and new nontransient, noncommunity water systems demonstrate technical, managerial, and financial capacity with respect to national primary drinking water regulations.

''(e) ENVIRONMENTAL FINANCE CENTERS.—

''(1) IN GENERAL.—The Administrator shall support the network of university-based Environmental Finance Centers in providing training and technical assistance to State and local officials in developing capacity of public water systems.

''(2) NATIONAL CAPACITY DEVELOPMENT CLEARINGHOUSE.—Within the Environmental Finance Center network in existence on the date of enactment of this section, the Administrator shall establish a national public water systems capacity development clearinghouse to receive, coordinate, and disseminate research and reports on projects funded under this title and from other sources with respect to developing, improving, and maintaining technical, financial, and managerial capacity at public water systems to Federal and State agencies, universities, water suppliers, and other interested persons.

''(3) CAPACITY DEVELOPMENT TECHNIQUES.—

''(A) IN GENERAL.—The Environmental Finance Centers shall develop and test managerial, financial, and institutional techniques—

''(i) to ensure that new public water systems have the technical, managerial, and financial capacity before commencing operation;

''(ii) to identify public water systems in need of capacity development; and

''(iii) to bring public water systems with a history of significant noncompliance with national primary drinking water regulations into compliance.

''(B) TECHNIQUES.—The techniques may include capacity assessment methodologies, manual and computer-based public water system rate models and capital planning models, public water system consolidation procedures, and regionalization models.

''(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out subsection (e) $2,500,000 for each of fiscal years 1995 through 2003.''.

SEC. 16. OPERATOR AND LABORATORY CERTIFICATION.

Section 1442 (42 U.S.C. 300j–1) is amended by inserting after subsection (d) the following:

''(e) CERTIFICATION OF OPERATORS AND LABORATORIES.—

''(1) REQUIREMENT.—Beginning 3 years after the date of enactment of the Safe Drinking Water Act Amendments of 1995—

''(A) no assistance may be provided to a public water system under part G unless the system has entered into an enforceable commitment with the State providing that any person who operates the system will be trained and certified according to requirements established by the Administrator or

the State (in the case of a State with primary enforcement responsibility under section 1413) not later than the date of completion of the capital project for which the assistance is provided; and

''(B) a public water system that has received assistance under part G may be operated only by a person who has been trained and certified according to requirements established by the Administrator or the State (in the case of a State with primary enforcement responsibility under section 1413).

''(2) GUIDELINES.—Not later than 18 months after the date of enactment of the Safe Drinking Water Act Amendments of 1995 and after consultation with the States, the Administrator shall publish information to assist States in carrying out paragraph (1). In the case of a State with primary enforcement responsibility under section 1413 *or any other State that has established a training program that is consistent with the guidance issued under this paragraph*, the authority to prescribe the appropriate level of training for certification for all systems shall be solely the responsibility of the State. The guidance issued under this paragraph shall also include information to assist States in certifying laboratories engaged in testing for the purpose of compliance with sections 1445 and 1401(1).

''(3) NONCOMPLIANCE.—If a public water system in a State is not operated in accordance with paragraph (1), the Administrator is authorized to withhold from funds that would otherwise be allocated to the State under section 1472 or require the repayment of an amount equal to the amount of any assistance under part G provided to the public water system.''.

SEC. 17. SOURCE WATER QUALITY PROTECTION PARTNERSHIPS.

Part B (42 U.S.C. 300g et seq.) (as amended by section 15) is further amended by adding at the end the following:

''SOURCE WATER QUALITY PROTECTION PARTNERSHIP PROGRAM

''SEC. 1419. (a) SOURCE WATER AREA DELINEATIONS.—Except as provided in subsection (c), not later than 5 years after the date of enactment of this section, and after an opportunity for public comment, each State shall—

''(1) delineate (directly or through delegation) the source water protection areas for community water systems in the State using hydrogeologic information considered to be reasonably available and appropriate by the State; and

''(2) conduct, to the extent practicable, vulnerability assessments in source water areas determined to be a priority by the State, including, to the extent practicable, identification of risks in source water protection areas to drinking water.

''(b) ALTERNATIVE DELINEATIONS AND VULNERABILITY ASSESSMENTS.—For the purposes of satisfying the requirements of subsection (a), a State may use delineations and vulnerability assessments conducted for—

''(1) ground water sources under a State wellhead protection program developed pursuant to section 1428;

''(2) surface or ground water sources under a State pesticide management plan developed pursuant to the Pesticide and Ground Water State Management Plan Regulation (subparts I and J of part 152 of title 40, Code of Federal Regulations), promulgated under section 3(d) of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136a(d)); or

''(3) surface water sources under a State watershed initiative or to satisfy the watershed criterion for determining if filtration is required under the Surface Water Treatment Rule (section 141.70 of title 40, Code of Federal Regulations).

''(c) FUNDING.—To carry out the delineations and assessments described in subsection (a), a State may use funds made available for that purpose pursuant to section 1473(f). If funds available under that section are insufficient to meet the minimum requirements of subsection (a), the State shall establish a priority-based schedule for the delineations and assessments within available resources.

''(d) PETITION PROGRAM.—

''(1) IN GENERAL.—

''(A) ESTABLISHMENT.—A State may establish a program under which an owner or operator of a community water system in the State, or a municipal or local government or political subdivision of a government in the State, may submit a source water quality protection partnership petition to the State requesting that the State assist in the local development of a voluntary, incentive-based partnership, among the owner, operator, or government and other persons likely to be affected by the recommendations of the partnership, to—

''(i) reduce the presence in drinking water of contaminants that may be addressed by a petition by considering the origins of the contaminants, including to the maximum extent practicable the specific activities that affect the drinking water supply of a community;

''(ii) obtain financial or technical assistance necessary to facilitate establishment of a partnership, or to develop and implement recommendations of a partnership for the protection of source water to assist in the provision of drinking water that complies with national primary drinking water regulations with respect to contaminants addressed by a petition; and

''(iii) develop recommendations regarding voluntary and incentive-based strategies for the long-term protection of the source water of community water systems.

''(B) STATE DETERMINATION.—Not later than 1 year after the date of enactment of this section, each State shall provide public notice and solicit public comment on the question of whether to develop a source water quality protection partnership petition program in the State, and publicly announce the determination of the State thereafter. If so requested by any public water system or local governmental entity, prior to making the determination, the State shall hold at least one public hearing to assess the level of interest in the State for development and implementation of a State source water quality partnership petition program.

''(C) FUNDING.—Each State may—

''(i) use funds set aside pursuant to section 1473(f) by the State to carry out a program described in subparagraph (A), including assistance to voluntary local partnerships for the development and implementation of partnership recommendations for the protection of [source water,] *source water such as* source water quality assessment, contingency plans, and demonstration projects for partners within a source water area delineated under subsection (a); and

''(ii) provide assistance in response to a petition submitted under this subsection using funds referred to in subsections (e)(2)(B) and (g).

''(2) OBJECTIVES.—The objectives of a petition submitted under this subsection shall be to—

''(A) facilitate the local development of voluntary, incentive-based partnerships among owners and operators of community water systems, governments, and other persons in source water areas; and

''(B) obtain assistance from the State in directing or redirecting resources under Federal or State water quality programs to implement the recommendations of the partnerships to address the origins of drinking water contaminants that may be addressed by a petition (including to the maximum extent practicable the specific activities) that affect the drinking water supply of a community.

''(3) CONTAMINANTS ADDRESSED BY A PETITION.—A petition submitted to a State under this section may address only those contaminants—

''(A) that are pathogenic organisms for which a national primary drinking water regulation has been established or is required under section 1412(b)(2)(C); or

''(B) for which a national primary drinking water regulation has been promulgated or proposed and—

''(i) that are detected in the community water system for which the petition is submitted at levels above the maximum contaminant level; or

''(ii) that are detected by adequate monitoring methods at levels that are not reliably and consistently below the maximum contaminant level.

''(4) CONTENTS.—A petition submitted under this subsection shall, at a minimum—

''(A) include a delineation of the source water area in the State that is the subject of the petition;

''(B) identify, to the maximum extent practicable, the origins of the drinking water contaminants that may be addressed by a petition (including to the maximum extent practicable the specific activities contributing to the presence of the contaminants) in the source water area delineated under subparagraph (A);

''(C) identify any deficiencies in information that will impair the development of recommendations by the voluntary local partnership to address drinking water contaminants that may be addressed by a petition;

''(D) specify the efforts made to establish the voluntary local partnership and obtain the participation of—

''(i) the municipal or local government or other political subdivision of the State with jurisdiction over the source water area delineated under subparagraph (A); and

''(ii) each person in the source water area delineated under subparagraph (A)—

''(I) who is likely to be affected by recommendations of the voluntary local partnership; and

''(II) whose participation is essential to the success of the partnership;

''(E) outline how the voluntary local partnership has or will, during development and implementation of recommendations of the voluntary local partnership, identify, recognize and take into account any voluntary or other activities already being undertaken by persons in the source water area delineated under subparagraph (A) under Federal or State law to reduce the likelihood that contaminants will occur in drinking water at levels of public health concern; and

''(F) specify the technical, financial, or other assistance that the voluntary local partnership requests of the State to develop the partnership or to implement recommendations of the partnership.

''(e) APPROVAL OR DISAPPROVAL OF PETITIONS.—

''(1) IN GENERAL.—After providing notice and an opportunity for public comment on a petition submitted under subsection (d), the State shall approve or disapprove the petition, in whole or in part, not later than 120 days after the date of submission of the petition.

''(2) APPROVAL.—The State may approve a petition if the petition meets the requirements established under subsection (d). The noticeofapprovalshall,ataminimum, include—

''(A) an identification of technical, financial, or other assistance that the State will provide to assist in addressing the drinking water contaminants that may be addressed by a petition based on—

''(i) the relative priority of the public health concern identified in the petition with respect to the other water quality needs identified by the State;

''(ii) any necessary coordination that the State will perform of the program established under this section with programs implemented or planned by other States under this section; and

''(iii) funds available (including funds available from a State revolving loan fund established under title VI of the Federal Water Pollution Control Act (33 U.S.C. 1381 et seq.) or part G and the appropriate distribution of the funds to assist in implementing the recommendations of the partnership;

''(B) a description of technical or financial assistance pursuant to Federal and State programs that is available to assist in implementing recommendations of the partnership in the petition, including—

''(i) any program established under the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.);

''(ii) the program established under section 6217 of the Coastal Zone Act Reauthorization Amendments of 1990 (16 U.S.C. 1455b);

''(iii) the agricultural water quality protection program established under chapter 2 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3838 et seq.);

''(iv) the sole source aquifer protection program established under section 1427;

''(v) the community wellhead protection program established under section 1428;

''(vi) any pesticide or ground water management plan; [and]

''(vii) any voluntary agricultural resource management plan or voluntary whole farm or whole ranch management plan developed and implemented under a process established by the Secretary of Agriculture; and

[''(vii)] *''(viii)* any abandoned well closure program; and

''(C) a description of activities that will be undertaken to coordinate Federal and State programs to respond to the petition.

''(3) DISAPPROVAL.—If the State disapproves a petition submitted under subsection (d), the State shall notify the entity submitting the petition in writing of the reasons for disapproval. A petition may be resubmitted at any time if—

''(A) new information becomes available;

''(B) conditions affecting the source water that is the subject of the petition change; or

''(C) modifications are made in the type of assistance being requested.

''(f) ELIGIBILITY FOR WATER QUALITY PROTECTION ASSISTANCE.—A sole source aquifer plan developed under section 1427, a wellhead protection plan developed under section 1428, and a source water quality protection measure assisted in response to a petition submitted under subsection (d) shall be eligible for assistance under the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), including assistance provided under section 319 and title VI of such Act (33 U.S.C. 1329 and 1381 et seq.), if the project, measure, or practice would be eligible for assistance under such Act. In the case of funds made available under such section 319 to assist a source water quality protection measure in response to a petition submitted under subsection (d), the funds may be used only for a measure that addresses nonpoint source pollution.

''(g) GRANTS TO SUPPORT STATE PROGRAMS.—

''(1) IN GENERAL.—The Administrator may make a grant to each State that establishes a program under this section that is approved under paragraph (2). The amount of each grant shall not exceed 50 percent of the cost of administering the program for the year in which the grant is available.

''(2) APPROVAL.—In order to receive grant assistance under this subsection, a State shall submit to the Administrator for approval a plan for a source water quality protection partnership program that is consistent with the guidance published under paragraph (3). The Administrator shall approve the plan if the plan is consistent with the guidance published under paragraph (3).

''(3) GUIDANCE.—

''(A) IN GENERAL.—Not later than 1 year after the date of enactment of this section, the Administrator, *in consultation with the States,* shall publish guidance to assist—

''(i) States in the development of a source water quality protection partnership program; and

''(ii) municipal or local governments or political subdivisions of the governments and community water systems in the development of source water quality protection partnerships and in the assessment of source water quality.

''(B) CONTENTS OF THE GUIDANCE.—The guidance shall, at a minimum—

''(i) recommend procedures for the approval or disapproval by a State of a petition submitted under subsection (d);

''(ii) recommend procedures for the submission of petitions developed under subsection (d);

''(iii) recommend criteria for the [delineation] *assessment* of source water areas within a State;

''(iv) describe technical or financial assistance pursuant to Federal and State programs that is available to address the contamination of sources of drinking water and to develop and respond to petitions submitted under subsection (d); and

''(v) specify actions taken by the Administrator to ensure the coordination of the programs referred to in clause (iv) with the goals and objectives of this title to the maximum extent practicable.

''(4) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subsection such sums as are necessary for fiscal years 1995 through 2003. Each State with a plan for a program approved under paragraph (2) shall receive an equitable portion of the funds available for any fiscal year.

''(h) STATUTORY CONSTRUCTION.—Nothing in this section—

''(1)(A) creates or conveys new authority to a State, political subdivision of a State, or community water system for any new regulatory measure; or

''(B) limits any [existing] authority of a State, political subdivision, or community water system; or

''(2) precludes a community water system, municipal or local government, or political subdivision of a government from locally developing and carrying out a voluntary, incentive-based, source water quality protection partnership to address the origins of drinking water contaminants of public health concern.''.

SEC. 18. STATE PRIMACY; STATE FUNDING.

(a) STATE PRIMARY ENFORCEMENT RESPONSIBILITY.—Section 1413 (42 U.S.C. 300g–2) is amended—

(1) in subsection (a), by striking paragraph (1) and inserting the following:

''(1) has adopted drinking water regulations that are no less stringent than the national primary drinking water regulations promulgated by the Administrator under section 1412 not later than 2 years after the date on which the regulations are promulgated by the Administrator;''; and

(2) by adding at the end the following:

''(c) INTERIM PRIMARY ENFORCEMENT AUTHORITY.—A State that has primary enforcement authority under this section with respect to each existing national primary drinking water regulation shall be considered to have primary enforcement authority with respect to each new or revised national primary drinking water regulation during the period beginning on the effective date of a regulation adopted and submitted by the State with respect to the new or revised national primary drinking water regulation in accordance with subsection (b)(1) and ending at such time as the Administrator makes a determination under subsection (b)(2) with respect to the regulation.''.

(b) PUBLIC WATER SYSTEM SUPERVISION PROGRAM.—Section 1443(a) (42 U.S.C. 300j–2(a)) is amended—

(1) in paragraph (3)—

(A) by striking ''(3) A grant'' and inserting the following:

''(3) AMOUNT OF GRANT.—

''(A) IN GENERAL.—A grant''; and

(B) by adding at the end the following:

''(B) DETERMINATION OF COSTS.—To determine the costs of a grant recipient pursuant to this paragraph, the Administrator shall, in cooperation with the States and not later than 180 days after the date of enactment of this subparagraph, establish a resource model for the public water system supervision program and review and revise the model as necessary.

''(C) STATE COST ADJUSTMENTS.—The Administrator shall revise cost estimates used in the resource model for any particular State to reflect costs more likely to be experienced in that State, if—

''(i) the State requests the modification; and

''(ii) the revised estimates ensure full and effective administration of the public water system supervision program in the State and the revised estimates do not overstate the resources needed to administer the program.'';

(2) in paragraph (7), by adding at the end a period and the following:

''For the purpose of making grants under paragraph (1), there are authorized to be appropriated such sums as are necessary for each of fiscal years 1992 and 1993 and $100,000,000 for each of fiscal years 1994 through 2003.''; and

(3) by adding at the end the following:

''(8) RESERVATION OF FUNDS BY THE ADMINISTRATOR.—If the Administrator assumes the primary enforcement responsibility of a State public water system supervision program, the Administrator may reserve from funds made available pursuant to this subsection, an amount equal to the amount that would otherwise have been provided to the State pursuant to this subsection. The Administrator shall use the funds reserved pursuant to this paragraph to ensure the full and effective administration of a public water system supervision program in the State.

''(9) STATE LOAN FUNDS.—

''(A) RESERVATION OF FUNDS.—For any fiscal year for which the amount made available to the Administrator by appropriations to carry out this subsection is less than the amount that the Administrator determines is necessary to supplement funds made available pursuant to paragraph (8) to ensure the full and effective administration of a public water system supervision program in a State (based on the resource model developed under paragraph (3)(B)), the Administrator may reserve from the funds made available to the State under section 1472 an amount that is equal to the amount of the shortfall.

''(B) DUTY OF ADMINISTRATOR.—If the Administrator reserves funds from the allocation of a State under subparagraph (A), the Administrator shall carry out in the State—

''(i) each of the activities that would be required of the State if the State had primary enforcement authority under section 1413; and

''(ii) each of the activities required of the State by this title, other than part C, but not made a condition of the authority.''.

SEC. 19. MONITORING AND INFORMATION GATHERING.

(a) REGULATED CONTAMINANTS.—

(1) REVIEW OF EXISTING REQUIREMENTS.—Section 1445(a)(1) (42 U.S.C. 300j–4(a)(1)) is amended—

(A) by designating the first and second sentences as subparagraphs (A) and (B), respectively; and

(B) by adding at the end the following:

''(C) REVIEW.—The Administrator shall not later than 2 years after the date of enactment of this subparagraph, after consultation with public health experts, representatives of the general public, and officials of State and local governments, review the monitoring requirements for not fewer than 12 contaminants identified by the Administrator, and promulgate any necessary modifications.''.

(2) ALTERNATIVE MONITORING PROGRAMS.—Section 1445(a)(1) (42 U.S.C. 300j–4(a)(1)) (as amended by paragraph (1)(B)) is further amended by adding at the end the following:

''(D) STATE-ESTABLISHED REQUIREMENTS.—

''(i) IN GENERAL.—Each State with primary enforcement responsibility under section 1413 may, by rule, establish alternative monitoring requirements for any national primary drinking water regulation, other than a regulation applicable to a microbial contaminant (or an indicator of a microbial contaminant). The alternative monitoring requirements established by a State under this clause may not take effect for any national primary drinking water regulation until after completion of at least 1 full cycle of monitoring in the State satisfying the requirements of paragraphs (1) and (2) of section 1413(a). The alternative monitoring requirements may be applicable to public water systems or classes of public water systems identified by the State, in lieu of the monitoring requirements that would otherwise be applicable under the regulation, if the alternative monitoring requirements—

''(I) are based on use of the best available science conducted in accordance with sound and objective scientific practices and data collected by accepted methods;

''(II) are based on the potential for the contaminant to occur in the source water based on use patterns and other relevant characteristics of the contaminant or the systems subject to the requirements;

''(III) in the case of a public water system or class of public water systems in which a contaminant has been detected at quantifiable levels that are not reliably and consistently below the maximum contaminant level, include monitoring frequencies that are not less frequent than the frequencies required in the national primary drinking water regulation for the contaminant for a period of 5 years after the detection; and

''(IV) in the case of each contaminant formed in the distribution system, are not applicable to public water systems for which treatment is necessary to comply with the national primary drinking water regulation.

''(ii) COMPLIANCE AND ENFORCEMENT.—The alternative monitoring requirements established by the State shall be adequate to ensure compliance with, and enforcement of, each national primary drinking water regulation. The State may review and update the alternative monitoring requirements as necessary.

''(iii) APPLICATION OF SECTION 1413.—

''(I) IN GENERAL.—Each State establishing alternative monitoring requirements under this subparagraph shall submit the rule to the Administrator as provided in section 1413(b)(1). Any requirements for a State to provide information supporting a submission shall be defined only in consultation with the States, and shall address only such information as is necessary to make a decision to approve or disapprove an alternative monitoring rule in accordance with the following sentence. The Administrator shall approve an alternative monitoring rule submitted under this clause for the purposes of section 1413, unless the Administrator determines in writing that the State rule for alternative monitoring does not ensure compliance with, and enforcement of, the national primary drinking water regulation for the contaminant or contaminants to which the rule applies.

''(II) EXCEPTIONS.—The requirements of section 1413(a)(1) that a rule be no less stringent than the national primary drinking water regulation for the contaminant or contaminants to which the rule applies shall not apply to the decision of the Administrator to approve or disapprove a rule submitted under this clause. Notwithstanding the requirements of section 1413(b)(2), the Administrator shall approve or disapprove a rule submitted under this clause within 180 days of submission. In the absence of a determination to disapprove a rule made by the Administrator within 180 days, the rule shall be deemed to be approved under section 1413(b)(2).

''(III) ADDITIONAL CONSIDERATIONS.—A State shall be considered to have primary enforcement authority with regard to an alternative monitoring rule, and the rule shall be effective, on a date (determined by the State) any time on or after submission of the rule, consistent with section 1413(c). A decision by the Administrator to disapprove an alternative monitoring rule under section 1413 or to withdraw the authority of the State to carry out the rule under clause (iv) may not be the basis for withdrawing primary enforcement responsibility for a national primary drinking water regulation or regulations from the State under section 1413.

''(iv) OVERSIGHT BY THE ADMINISTRATOR.—The Administrator shall review, not less often than every 5 years, any alternative monitoring requirements established by a State under clause (i) to determine whether the requirements are adequate to ensure compliance with, and enforcement of, national primary drinking water regulations. If the Administrator determines that the alternative monitoring requirements of a State are inadequate with respect to a contaminant, and after providing the State with an opportunity to respond to the determination of the Administrator and to correct any inadequacies, the Administrator may withdraw the authority of the State to carry out the alternative monitoring requirements with respect to the contaminant. If the Administrator withdraws the authority, the monitoring requirements contained in the national primary drinking water regulation for the contaminant shall apply to public water systems in the State.

''(v) NONPRIMACY STATES.—The Governor of any State that does not have primary enforcement responsibility under section 1413 on the date of enactment of this clause may submit to the Administrator a request that the Administrator modify the monitoring requirements established by the Administrator and applicable to public water systems in that State. After consultation with the Governor, the Administrator shall modify the requirements for public water systems in that State if the request of the Governor is in accordance with each of the requirements of this subparagraph that apply to alternative monitoring requirements established by States that have primary enforcement responsibility. A decision by the Administrator to approve a request under this clause shall be for a period of 3 years and may subsequently be extended for periods of 5 years.

''(vi) GUIDANCE.—The Administrator shall issue guidance in consultation with the States that States may use to develop State-established requirements pursuant to this subparagraph and subparagraph (E). The guidance shall identify options for alternative monitoring designs that meet the criteria identified in clause (i) and the requirements of clause (ii).''.

(3) SMALL SYSTEM MONITORING.—Section 1445(a)(1) (42 U.S.C. 300j–4(a)(1)) (as amended by paragraph (2)) is further amended by adding at the end the following:

''(E) SMALL SYSTEM MONITORING.—The Administrator or a State that has primary enforcement responsibility under section 1413 may modify the monitoring requirements for any contaminant, other than a microbial contaminant or an indicator of a microbial contaminant, a contaminant regulated on the basis of an acute health effect, or a contaminant formed in the treatment process or in the distribution system, to provide that any public water system that serves a population of 10,000 or fewer shall not be required to conduct additional quarterly monitoring during any 3-year period for a specific contaminant if monitoring conducted at the beginning of the period for the contaminant fails to detect the presence of the contaminant in the water supplied by the public water system, and the Administrator or the State determines that the contaminant is unlikely to be detected by further monitoring in the period.''.

(b) UNREGULATED CONTAMINANTS.—Section 1445(a) (42 U.S.C. 300j–4(a)) is amended by striking paragraphs (2) through (8) and inserting the following:

''(2) MONITORING PROGRAM FOR UNREGULATED CONTAMINANTS.—

''(A) ESTABLISHMENT.—The Administrator shall promulgate regulations establishing the criteria for a monitoring program for unregulated contaminants. The regulations shall require monitoring of drinking water supplied by public water systems and shall vary the frequency and schedule for monitoring requirements for systems based on the number of persons served by the system, the source of supply, and the contaminants likely to be found.

''(B) MONITORING PROGRAM FOR CERTAIN UNREGULATED CONTAMINANTS.—

''(i) INITIAL LIST.—Not later than 3 years after the date of enactment of the Safe Drinking Water Amendments of 1995 and every 5 years thereafter, the Administrator shall issue a list pursuant to subparagraph (A) of not more than 20 unregulated contaminants to be monitored by public water systems and to be included in the national drinking water occurrence data base maintained pursuant to paragraph (3).

''(ii) GOVERNORS' PETITION.—The Administrator shall include among the list of contaminants for which monitoring is required under this paragraph each contaminant recommended in a petition signed by the Governor of each of 7 or more States, unless the Administrator determines that the action would prevent the listing of other contaminants of a higher public health concern.

''(C) MONITORING BY LARGE SYSTEMS.—A public water system that serves a population of more than 10,000 shall conduct monitoring

for all contaminants listed under subparagraph (B).

''(D) MONITORING PLAN FOR SMALL AND MEDIUM SYSTEMS.—

''(i) IN GENERAL.—Based on the regulations promulgated by the Administrator, each State shall develop a representative monitoring plan to assess the occurrence of unregulated contaminants in public water systems that serve a population of 10,000 or fewer. The plan shall require monitoring for systems representative of different sizes, types, and geographic locations in the State.

''(ii) GRANTS FOR SMALL SYSTEM COSTS.—From funds reserved under section 1478(c), the Administrator shall pay the reasonable cost of such testing and laboratory analysis as are necessary to carry out monitoring under the plan.

''(E) MONITORING RESULTS.—Each public water system that conducts monitoring of unregulated contaminants pursuant to this paragraph shall provide the results of the monitoring to the primary enforcement authority for the system.

''(F) WAIVER OF MONITORING REQUIREMENT.—The Administrator shall waive the requirement for monitoring for a contaminant under this paragraph in a State, if the State demonstrates that the criteria for listing the contaminant do not apply in that State.

''(G) ANALYTICAL METHODS.—The State may use screening methods approved by the Administrator under subsection (h) in lieu of monitoring for particular contaminants under this paragraph.

''(H) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this paragraph $10,000,000 for each of fiscal years 1995 through 2003.''.

(c) NATIONAL DRINKING WATER OCCURRENCE DATABASE.—Section 1445(a) (42 U.S.C. 300j–4(a)) (as amended by subsection (b)) is further amended by adding at the end the following:

''(3) NATIONAL DRINKING WATER OCCURRENCE DATABASE.—

''(A) IN GENERAL.—Not later than 3 years after the date of enactment of the Safe Drinking Water Act Amendments of 1995, the Administrator shall assemble and maintain a national drinking water occurrence data base, using information on the occurrence of both regulated and unregulated contaminants in public water systems obtained under paragraph (2) and reliable information from other public and private sources.

''(B) USE.—The data shall be used by the Administrator in making determinations under section 1412(b)(1) with respect to the occurrence of a contaminant in drinking water at a level of public health concern.

''(C) PUBLIC RECOMMENDATIONS.—The Administrator shall periodically solicit recommendations from the appropriate officials of the National Academy of Sciences and the States, and any person may submit recommendations to the Administrator, with respect to contaminants that should be included in the national drinking water occurrence data base, including recommendations with respect to additional unregulated contaminants that should be listed under paragraph (2). Any recommendation submitted under this clause shall be accompanied by reasonable documentation that—

''(i) the contaminant occurs or is likely to occur in drinking water; and

''(ii) the contaminant poses a risk to public health.

''(D) PUBLIC AVAILABILITY.—The information from the data base shall be available to the public in readily accessible form.

''(E) REGULATED CONTAMINANTS.—With respect to each contaminant for which a national primary drinking water regulation has been established, the data base shall include information on the detection of the contaminant at a quantifiable level in public water systems (including detection of the contaminant at levels not constituting a violation of the maximum contaminant level for the contaminant).

''(F) UNREGULATED CONTAMINANTS.—With respect to contaminants for which a national primary drinking water regulation has not been established, the data base shall include—

''(i) monitoring information collected by public water systems that serve a population of more than 10,000, as required by the Administrator under paragraph (2);

''(ii) monitoring information collected by the States from a representative sampling of public water systems that serve a population of 10,000 or fewer; and

''(iii) other reliable and appropriate monitoring information on the occurrence of the contaminants in public water systems that is available to the Administrator.''.

(d) INFORMATION.—

(1) MONITORING AND TESTING AUTHORITY.—Subparagraph (A) of section 1445(a)(1) (42 U.S.C. 300j–4(a)(1)) (as designated by subsection (a)(1)(A)) is amended—

(A) by inserting ''by accepted methods'' after ''conduct such monitoring''; and

(B) by striking ''such information as the Administrator may reasonably require'' and all that follows through the period at the end and inserting the following: ''such information as the Administrator may reasonably require—

''(i) to assist the Administrator in establishing regulations under this title or to assist the Administrator in determining, on a case-by-case basis, whether the person has acted or is acting in compliance with this title; and

''(ii) by regulation to assist the Administrator in determining compliance with national primary drinking water regulations promulgated under section 1412 or in administering any program of financial assistance under this title.

If the Administrator is requiring monitoring for purposes of testing new or alternative methods, the Administrator may require the use of other than accepted methods.''.

(2) SCREENING METHODS.—Section 1445 (42 U.S.C. 300j–4) (as amended by section 12(c)) is further amended by adding at the end the following:

''(h) SCREENING METHODS.—The Administrator shall review new analytical methods to screen for regulated contaminants and may approve such methods as are more accurate or cost-effective than established reference methods for use in compliance monitoring.''.

SEC. 20. PUBLIC NOTIFICATION.

Section 1414 (42 U.S.C. 300g–3) is amended by striking subsection (c) and inserting the following:

''(c) NOTICE TO PERSONS SERVED.—

''(1) IN GENERAL.—Each owner or operator of a public water system shall give notice to the persons served by the system—

''(A) of any failure on the part of the public water system to—

''(i) comply with an applicable maximum contaminant level or treatment technique requirement of, or a testing procedure prescribed by, a national primary drinking water regulation; or

''(ii) perform monitoring required by section 1445(a);

''(B) if the public water system is subject to a variance granted under section 1415(a)(1)(A), 1415(a)(2), or 1415(e) for an inability to meet a maximum contaminant level requirement or is subject to an exemption granted under section 1416, of—

''(i) the existence of the variance or exemption; and

''(ii) any failure to comply with the requirements of any schedule prescribed pursuant to the variance or exemption; and

''(C) of the concentration level of any unregulated contaminant for which the Administrator has required public notice pursuant to paragraph (2)(E).

''(2) FORM, MANNER, AND FREQUENCY OF NOTICE.—

''(A) IN GENERAL.—The Administrator shall, by regulation, and after consultation with the States, prescribe the manner, frequency, form, and content for giving notice under this subsection. The regulations shall—

''(i) provide for different frequencies of notice based on the differences between violations that are intermittent or infrequent and violations that are continuous or frequent; and

''(ii) take into account the seriousness of any potential adverse health effects that may be involved.

''(B) STATE REQUIREMENTS.—

''(i) IN GENERAL.—A State may, by rule, establish alternative notification requirements—

''(I) with respect to the form and content of notice given under and in a manner in accordance with subparagraph (C); and

''(II) with respect to the form and content of notice given under subparagraph (D).

''(ii) CONTENTS.—The alternative requirements shall provide the same type and amount of information as required pursuant to this subsection and regulations issued under subparagraph (A).

''(iii) RELATIONSHIP TO SECTION 1413.—Nothing in this subparagraph shall be construed or applied to modify the requirements of section 1413.

''(C) VIOLATIONS WITH POTENTIAL TO HAVE SERIOUS ADVERSE EFFECTS ON HUMAN HEALTH.—Regulations issued under subparagraph (A) shall specify notification procedures for each violation by a public water system that has the potential to have serious adverse effects on human health as a result of short-term exposure. Each notice of violation provided under this subparagraph shall—

''(i) be distributed as soon as practicable after the occurrence of the violation, but not later than 24 hours after the occurrence of the violation;

''(ii) provide a clear and readily understandable explanation of—

''(I) the violation;

''(II) the potential adverse effects on human health;

''(III) the steps that the public water system is taking to correct the violation; and

''(IV) the necessity of seeking alternative water supplies until the violation is corrected;

''(iii) be provided to the Administrator or the head of the State agency that has primary enforcement responsibility under section 1413 as soon as practicable, but not later than 24 hours after the occurrence of the violation; and

''(iv) as required by the State agency in general regulations of the State agency, or on a case-by-case basis after the consultation referred to in clause (iii), considering the health risks involved—

''(I) be provided to appropriate broadcast media;

''(II) be prominently published in a newspaper of general circulation serving the area not later than 1 day after distribution of a notice pursuant to clause (i) or the date of publication of the next issue of the newspaper; or

''(III) be provided by posting or door-to-door notification in lieu of notification by means of broadcast media or newspaper.

''(D) WRITTEN NOTICE.—

''(i) IN GENERAL.—Regulations issued under subparagraph (A) shall specify notification procedures for violations other than the violations covered by subparagraph (C). The procedures shall specify that a public water system shall provide written notice to each person served by the system by notice—

''(I) in the first bill (if any) prepared after the date of occurrence of the violation;

''(II) in an annual report issued not later than 1 year after the date of occurrence of the violation; or

''(III) by mail or direct delivery as soon as practicable, but not later than 1 year after the date of occurrence of the violation.

''(ii) FORM AND MANNER OF NOTICE.—The Administrator shall prescribe the form and manner of the notice to provide a clear and readily understandable explanation of—

''(I) the violation;

''(II) any potential adverse health effects; and

''(III) the steps that the system is taking to seek alternative water supplies, if any, until the violation is corrected.

''(E) UNREGULATED CONTAMINANTS.—The Administrator may require the owner or operator of a public water system to give notice to the persons served by the system of the concentration levels of an unregulated contaminant required to be monitored under section 1445(a).

''(3) REPORTS.—

''(A) ANNUAL REPORT BY STATE.—

''(i) IN GENERAL.—Not later than January 1, 1997, and annually thereafter, each State that has primary enforcement responsibility under section 1413 shall prepare, make readily available to the public, and submit to the Administrator an annual report on violations of national primary drinking water regulations by public water systems in the State, including violations with respect to—

''(I) maximum contaminant levels;

''(II) treatment requirements;

''(III) variances and exemptions; and

''(IV) monitoring requirements determined to be significant by the Administrator after consultation with the States.

''(ii) DISTRIBUTION.—The State shall publish and distribute summaries of the report and indicate where the full report is available for review.

''(B) ANNUAL REPORT BY ADMINISTRATOR.—Not later than July 1, 1997, and annually thereafter, the Administrator shall prepare and make available to the public an annual report summarizing and evaluating reports submitted by States pursuant to subparagraph (A) and notices submitted by public water systems serving Indian Tribes provided to the Administrator pursuant to subparagraph (C) or (D) of paragraph (2) and making recommendations concerning the resources needed to improve compliance with this title. The report shall include information about public water system compliance on Indian reservations and about enforcement activities undertaken and financial assistance provided by the Administrator on Indian reservations, and shall make specific recommendations concerning the resources needed to improve compliance with this title on Indian reservations.''.

SEC. 21. ENFORCEMENT; JUDICIAL REVIEW.

(a) IN GENERAL.—Section 1414 (42 U.S.C. 300g–3) is amended—

(1) in subsection (a)—

(A) in paragraph (1)—

(i) in subparagraph (A)—

(I) in clause (i), by striking ''any national primary drinking water regulation in effect under section 1412'' and inserting ''any applicable requirement''; and

(II) by striking ''with such regulation or requirement'' and inserting ''with the requirement''; and

(ii) in subparagraph (B), by striking ''regulation or'' and inserting ''applicable''; and

(B) by striking paragraph (2) and inserting the following:

''(2) ENFORCEMENT IN NONPRIMACY STATES.—

''(A) IN GENERAL.—If, on the basis of information available to the Administrator, the Administrator finds, with respect to a period in which a State does not have primary enforcement responsibility for public water systems, that a public water system in the State—

''(i) for which a variance under section 1415 or an exemption under section 1416 is not in effect, does not comply with any applicable requirement; or

''(ii) for which a variance under section 1415 or an exemption under section 1416 is in effect, does not comply with any schedule or other requirement imposed pursuant to the variance or exemption;

the Administrator shall issue an order under subsection (g) requiring the public water system to comply with the requirement, or commence a civil action under subsection (b).

''(B) NOTICE.—If the Administrator takes any action pursuant to this paragraph, the Administrator shall notify an appropriate local elected official, if any, with jurisdiction over the public water system of the action prior to the time that the action is taken.'';

(2) in the first sentence of subsection (b), by striking ''a national primary drinking water regulation'' and inserting ''any applicable requirement'';

(3) in subsection (g)—

(A) in paragraph (1), by striking ''regulation, schedule, or other'' each place it appears and inserting ''applicable'';

(B) in paragraph (2)—

(i) in the first sentence—

(I) by striking ''effect until after notice and opportunity for public hearing and,'' and inserting ''effect,''; and

(II) by striking ''proposed order'' and inserting ''order''; and

(ii) in the second sentence, by striking ''proposed to be''; and

(C) in paragraph (3)—

(i) by striking subparagraph (B) and inserting the following:

''(B) EFFECT OF PENALTY AMOUNTS.—In a case in which a civil penalty sought by the Administrator under this paragraph does not exceed $5,000, the penalty shall be assessed by the Administrator after notice and opportunity for a public hearing (unless the person against whom the penalty is assessed requests a hearing on the record in accordance with section 554 of title 5, United States Code). In a case in which a civil penalty sought by the Administrator under this paragraph exceeds $5,000, but does not exceed $25,000, the penalty shall be assessed by the Administrator after notice and opportunity for a hearing on the record in accordance with section 554 of title 5, United States Code.''; and

(ii) in subparagraph (C), by striking ''paragraph exceeds $5,000'' and inserting ''subsection for a violation of an applicable requirement exceeds $25,000''; and

(4) by adding at the end the following:

''(h) CONSOLIDATION INCENTIVE.—

''(1) IN GENERAL.—An owner or operator of a public water system may submit to the State in which the system is located (if the State has primary enforcement responsibility under section 1413) or to the Administrator (if the State does not have primary enforcement responsibility) a plan (including specific measures and schedules) for—

''(A) the physical consolidation of the system with 1 or more other systems;

''(B) the consolidation of significant management and administrative functions of the system with 1 or more other systems; or

''(C) the transfer of ownership of the system that may reasonably be expected to improve drinking water quality.

''(2) CONSEQUENCES OF APPROVAL.—If the State or the Administrator approves a plan pursuant to paragraph (1), no enforcement action shall be taken pursuant to this part with respect to a specific violation identified in the approved plan prior to the date that is the earlier of the date on which consolidation is completed according to the plan or the date that is 2 years after the plan is approved.

''(i) DEFINITION OF APPLICABLE REQUIREMENT.—In this section, the term 'applicable requirement' means—

''(1) a requirement of section 1412, 1414, 1415, 1416, 1417, 1441, [1442, 1445, 1447, 1463, 1464, or 1471;] *or 1445;*

''(2) a regulation promulgated pursuant to a section referred to in paragraph (1);

''(3) a schedule or requirement imposed pursuant to a section referred to in paragraph (1); and

''(4) a requirement of, or permit issued under, an applicable State program for which the Administrator has made a determination that the requirements of section 1413 have been satisfied, or an applicable State program approved pursuant to this part.''.

(b) STATE AUTHORITY FOR ADMINISTRATIVE PENALTIES.—Section 1413(a) (42 U.S.C. 300g–2(a)) is amended—

(1) by striking ''and'' at the end of paragraph (4);

(2) by striking the period at the end of paragraph (5) and inserting ''; and''; and

(3) by adding at the end the following:

''(6) has adopted authority for administrative penalties (unless the constitution of the State prohibits the adoption of the authority) in a maximum amount—

''(A) in the case of a system serving a population of more than 10,000, that is not less than $1,000 per day per violation; and

''(B) in the case of any other system, that is adequate to ensure compliance (as determined by the State);

except that a State may establish a maximum limitation on the total amount of administrative penalties that may be imposed on a public water system per violation.''.

(c) JUDICIAL REVIEW.—Section 1448(a) (42 U.S.C. 300j–7(a)) is amended—

(1) in paragraph (2) of the first sentence, by inserting ''final'' after ''any other'';

(2) in the second sentence, by striking ''or issuance of the order'' and inserting ''or any other final Agency action''; and

(3) by adding at the end the following ''In any petition concerning the assessment of a civil penalty pursuant to section 1414(g)(3)(B), the petitioner shall simultaneously send a copy of the complaint by certified mail to the Administrator and the Attorney General. The court shall set aside [or] *and* remand the penalty order if the court finds that there is not substantial evidence in the record to support the finding of a violation or that the assessment of the penalty by the Administrator constitutes an abuse of discretion.''.

SEC. 22. FEDERAL AGENCIES.

(a) IN GENERAL.—Subsections (a) and (b) of section 1447 (42 U.S.C. 300j–6) are amended to read as follows:

''(a) COMPLIANCE.—

''(1) IN GENERAL.—Each Federal agency shall be subject to, and comply with, all Federal, State, interstate, and local substantive and procedural requirements, administrative authorities, and process and sanctions concerning the provision of safe drinking water

or underground injection in the same manner, and to the same extent, as any nongovernmental entity is subject to, and shall comply with, the requirements, authorities, and process and sanctions.

''(2) ADMINISTRATIVE ORDERS AND PENALTIES.—The Federal, State, interstate, and local substantive and procedural requirements, administrative authorities, and process and sanctions referred to in paragraph (1) include all administrative orders and all civil and administrative penalties or fines, regardless of whether the penalties or fines are punitive or coercive in nature or are imposed for isolated, intermittent, or continuing violations.

''(3) LIMITED WAIVER OF SOVEREIGN IMMUNITY.—The United States expressly waives any immunity otherwise applicable to the United States with respect to any requirement, administrative authority, or process or sanction referred to in paragraph (2) (including any injunctive relief, administrative order, or civil or administrative penalty or fine referred to in paragraph (2), or reasonable service charge). The reasonable service charge referred to in the preceding sentence includes—

''(A) a fee or charge assessed in connection with the processing, issuance, renewal, or amendment of a permit, variance, or exemption, review of a plan, study, or other document, or inspection or monitoring of a facility; and

''(B) any other nondiscriminatory charge that is assessed in connection with a Federal, State, interstate, or local safe drinking water regulatory program.

''(4) CIVIL PENALTIES.—No agent, employee, or officer of the United States shall be personally liable for any civil penalty under this subsection with respect to any act or omission within the scope of the official duties of the agent, employee, or officer.

''(5) CRIMINAL SANCTIONS.—An agent, employee, or officer of the United States may be subject to a criminal sanction under a State, interstate, or local law concerning the provision of drinking water or underground injection. No department, agency, or instrumentality of the executive, legislative, or judicial branch of the Federal Government shall be subject to a sanction referred to in the preceding sentence.

''(b) WAIVER OF COMPLIANCE.—

''(1) IN GENERAL.—The President may waive compliance with subsection (a) by any department, agency, or instrumentality in the executive branch if the President determines waiving compliance with such subsection to be in the paramount interest of the United States.

''(2) WAIVERS DUE TO LACK OF APPROPRIATIONS.—No waiver described in paragraph (1) shall be granted due to the lack of an appropriation unless the President has specifically requested the appropriation as part of the budgetary process and Congress has failed to make available the requested appropriation.

''(3) PERIOD OF WAIVER.—A waiver under this subsection shall be for a period of not to exceed 1 year, but an additional waiver may be granted for a period of not to exceed 1 year on the termination of a waiver if the President reviews the waiver and makes a determination that it is in the paramount interest of the United States to grant an additional waiver.

''(4) REPORT.—Not later than January 31 of each year, the President shall report to Congress on each waiver granted pursuant to this subsection during the preceding calendar year, together with the reason for granting the waiver.''.

(b) ADMINISTRATIVE PENALTY ORDERS.—Section 1447 (42 U.S.C. 300j–6) is amended by adding at the end the following:

''(d) ADMINISTRATIVE PENALTY ORDERS.—

''(1) IN GENERAL.—If the Administrator finds that a Federal agency has violated an applicable requirement under this title, the Administrator may issue a penalty order assessing a penalty against the Federal agency.

''(2) PENALTIES.—The Administrator may, after notice to the agency, assess a civil penalty against the agency in an amount not to exceed $25,000 per day per violation.

''(3) PROCEDURE.—Before an administrative penalty order issued under this subsection becomes final, the Administrator shall provide the agency an opportunity to confer with the Administrator and shall provide the agency notice and an opportunity for a hearing on the record in accordance with chapters 5 and 7 of title 5, United States Code.

''(4) PUBLIC REVIEW.—

''(A) IN GENERAL.—Any interested person may obtain review of an administrative penalty order issued under this subsection. The review may be obtained in the United States District Court for the District of Columbia or in the United States District Court for the district in which the violation is alleged to have occurred by the filing of a complaint with the court within the 30-day period beginning on the date the penalty order becomes final. The person filing the complaint shall simultaneously send a copy of the complaint by certified mail to the Administrator and the Attorney General.

''(B) RECORD.—The Administrator shall promptly file in the court a certified copy of the record on which the order was issued.

''(C) STANDARD OF REVIEW.—The court shall not set aside or remand the order unless the court finds that there is not substantial evidence in the record, taken as a whole, to support the finding of a violation or that the assessment of the penalty by the Administrator constitutes an abuse of discretion.

''(D) PROHIBITION ON ADDITIONAL PENALTIES.—The court may not impose an additional civil penalty for a violation that is subject to the order unless the court finds that the assessment constitutes an abuse of discretion by the Administrator.''.

(c) CITIZEN ENFORCEMENT.—The first sentence of section 1449(a) (42 U.S.C. 300j–8(a)) is amended—

(1) in paragraph (1), by striking '', or'' and inserting a semicolon;

(2) in paragraph (2), by striking the period at the end and inserting ''; or''; and

(3) by adding at the end the following:

''(3) for the collection of a penalty (and associated costs and interest) against any Federal agency that fails, by the date that is 1 year after the effective date of a final order to pay a penalty assessed by the Administrator under section 1447(d), to pay the penalty.''.

(d) WASHINGTON AQUEDUCT.—Section 1447 (42 U.S.C. 300j–6) (as amended by subsection (b)) is further amended by adding at the end the following:

''(e) WASHINGTON AQUEDUCT.—The Washington Aqueduct Authority, the Army Corps of Engineers, and the Secretary of the Army shall not pass the cost of any penalty assessed under this title on to any customer, user, or other purchaser of drinking water from the Washington Aqueduct system, including finished water from the Dalecarlia or McMillan treatment plant.''.

SEC. 23. RESEARCH.

Section 1442 (42 U.S.C. 300j–1) (as amended by section 12(d)) is further amended—

(1) by redesignating paragraph (3) of subsection (b) as paragraph (3) of subsection (d) and moving such paragraph to appear after paragraph (2) of subsection (d);

(2) by striking subsection (b) (as so amended);

(3) by redesignating subparagraph (B) of subsection (a)(2) as subsection (b) and moving such subsection to appear after subsection (a);

(4) in subsection (a)—

(A) by striking paragraph (2) (as so amended) and inserting the following:

''(2) INFORMATION AND RESEARCH FACILITIES.—In carrying out this title, the Administrator is authorized to—

''(A) collect and make available information pertaining to research, investigations, and demonstrations with respect to providing a dependably safe supply of drinking water, together with appropriate recommendations in connection with the information; and

''(B) make available research facilities of the Agency to appropriate public authorities, institutions, and individuals engaged in studies and research relating to this title.'';

(B) by striking paragraph (3);

(C) by redesignating paragraph (11) as paragraph (3) and moving such paragraph to appear before paragraph (4); and

(D) by adding at the end the following:

''(11) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Administrator to carry out research authorized by this section $25,000,000 for each of fiscal years 1994 through 2003, of which $4,000,000 shall be available for each fiscal year for research on the health effects of arsenic in drinking water.'';

(5) in subsection (b) (as so amended)—

(A) by striking ''subparagraph'' each place it appears and inserting ''subsection''; and

(B) by adding at the end the following: ''There are authorized to be appropriated to carry out this subsection $8,000,000 for each of fiscal years 1995 through 2003.'';

(6) in the first sentence of subsection (c), by striking ''eighteen months after the date of enactment of this subsection'' and inserting ''2 years after the date of enactment of the Safe Drinking Water Act Amendments of 1995, and every 5 years thereafter'';

(7) in subsection (d) (as amended by paragraph (1))—

(A) in paragraph (1), by striking '', and'' at the end and inserting a semicolon;

(B) in paragraph (2), by striking the period at the end and inserting a semicolon;

(C) in paragraph (3), by striking the period at the end and inserting ''; and'';

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

''(4) develop and maintain a system for forecasting the supply of, and demand for, various professional occupational categories and other occupational categories needed for the protection and treatment of drinking water in each region of the United States.''; and

(E) by adding at the end the following: ''There are authorized to be appropriated to carry out this subsection $10,000,000 for each of fiscal years 1994 through 2003.''; and

(8) by adding at the end the following:

''(i) BIOLOGICAL MECHANISMS.—In carrying out this section, the Administrator shall conduct studies to—

''(1) understand the mechanisms by which chemical contaminants are absorbed, distributed, metabolized, and eliminated from the human body, so as to develop more accurate physiologically based models of the phenomena;

''(2) understand the effects of contaminants and the mechanisms by which the contaminants cause adverse effects (especially noncancer and infectious effects) and the variations in the effects among humans, especially subpopulations at greater risk of adverse effects, and between test animals and humans; and

''(3) develop new approaches to the study of complex mixtures, such as mixtures found in drinking water, especially to determine the prospects for synergistic or antagonistic

interactions that may affect the shape of the dose-response relationship of the individual chemicals and microbes, and to examine noncancer endpoints and infectious diseases, and susceptible individuals and subpopulations.

''(j) RESEARCH PRIORITIES.—To establish long-term priorities for research under this section, the Administrator shall develop, and periodically update, an integrated risk characterization strategy for drinking water quality. The strategy shall identify unmet needs, priorities for study, and needed improvements in the scientific basis for activities carried out under this title. The initial strategy shall be made available to the public not later than 3 years after the date of enactment of this subsection.

''(k) RESEARCH PLAN FOR HARMFUL SUBSTANCES IN DRINKING WATER.—

''(1) DEVELOPMENT OF PLAN.—The Administrator shall—

''(A) not later than 180 days after the date of enactment of this subsection, after consultation with the Secretary of Health and Human Services, the Secretary of Agriculture, and, *as appropriate,* the heads of other Federal agencies, develop a research plan to support the development and implementation of the most current version of the—

''(i) enhanced surface water treatment rule [(announced at 59 Fed. Reg. 6332 (February 10, 1994)] *59 Fed. Reg. 38832 (July 29, 1994)*);

''(ii) disinfectant and disinfection byproducts rule (Stage 2) [(announced at 59 Fed. Reg. 6332 (February 10, 1994)] *59 Fed. Reg. 38668 (July 29, 1994)*); and

''(iii) ground water disinfection rule (availability of draft summary announced at 57 Fed. Reg. 33960 (July 31, 1992)); and

''(B) carry out the research plan, after consultation and appropriate coordination with the Secretary of Agriculture and the heads of other Federal agencies.

''(2) CONTENTS OF PLAN.—

''(A) IN GENERAL.—The research plan shall include, at a minimum—

''(i) an identification and characterization of new disinfection byproducts associated with the use of different disinfectants;

''(ii) toxicological studies and, if warranted, epidemiological studies to determine what levels of exposure from disinfectants and disinfection byproducts, if any, may be associated with developmental and birth defects and other potential toxic end points;

''(iii) toxicological studies and, if warranted, epidemiological studies to quantify the carcinogenic potential from exposure to disinfection byproducts resulting from different disinfectants;

''(iv) the development of practical analytical methods for detecting and enumerating microbial contaminants, including giardia, cryptosporidium, and viruses;

''(v) the development of reliable, efficient, and economical methods to determine the viability of individual cryptosporidium oocysts;

''(vi) the development of dose-response curves for pathogens, including cryptosporidium and the Norwalk virus;

''(vii) the development of indicators that define treatment effectiveness for pathogens and disinfection byproducts; and

''(viii) bench, pilot, and full-scale studies and demonstration projects to evaluate optimized conventional treatment, ozone, granular activated carbon, and membrane technology for controlling pathogens (including cryptosporidium) and disinfection byproducts.

''(B) RISK DEFINITION STRATEGY.—The research plan shall include a strategy for determining the risks and estimated extent of disease resulting from pathogens, disinfectants, and disinfection byproducts in drinking water, and the costs and removal efficiencies associated with various control methods for pathogens, disinfectants, and disinfection byproducts.

''(3) IMPLEMENTATION OF PLAN.—In carrying out the research plan, the Administrator shall use the most cost-effective mechanisms available, including coordination of research with, and use of matching funds from, institutions and utilities.

''(4) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subsection $12,500,000 for each of fiscal years 1997 through 2003.

''(l) SUBPOPULATIONS AT GREATER RISK.—

''(1) RESEARCH PLAN.—The Administrator shall conduct a continuing program of peer-reviewed research to identify groups within the general population that may be at greater risk than the general population of adverse health effects from exposure to contaminants in drinking water. Not later than 1 year after the date of enactment of this subsection, the Administrator shall develop and implement a research plan to establish whether and to what degree infants, children, pregnant women, the elderly, individuals with a history of serious illness, or other subpopulations that can be identified and characterized are likely to experience elevated health risks, including risks of cancer, from contaminants in drinking water.

''(2) CONTENTS OF PLAN.—To the extent appropriate, the research shall be—

''(A) integrated into the health effects research plan carried out by the Administrator to support the regulation of specific contaminants under this Act; and

''(B) designed to identify—

''(i) the nature and extent of the elevated health risks, if any;

''(ii) the groups likely to experience the elevated health risks;

''(iii) biological mechanisms and other factors that may contribute to elevated health risks for groups within the general population;

''(iv) the degree of variability of the health risks to the groups from the health risks to the general population;

''(v) the threshold, if any, at which the elevated health risks for a specific contaminant occur; and

''(vi) the probability of the exposure to the contaminants by the identified group.

''(3) REPORT.—Not later than 4 years after the date of enactment of this subsection and periodically thereafter as new and significant information becomes available, the Administrator shall report to Congress on the results of the research.

''(4) USE OF RESEARCH.—In characterizing the health effects of drinking water contaminants under this Act, the Administrator shall consider all relevant factors, including the results of research under this subsection, the margin of safety for variability in the general population, and sound scientific practices (including the 1993 and 1994 reports of the National Academy of Sciences) regarding subpopulations at greater risk for adverse health effects.''.

SEC. 24. DEFINITIONS.

(a) IN GENERAL.—Section 1401 (42 U.S.C. 300f) is amended—

(1) in paragraph (1)—

(A) in subparagraph (D), by inserting ''accepted methods for'' before ''quality control''; and

(B) by adding at the end the following:

''At any time after promulgation of a regulation referred to in this paragraph, the Administrator may add equally effective quality control and testing procedures by guidance published in the Federal Register. The procedures shall be treated as an alternative for public water systems to the quality control and testing procedures listed in the regulation.'';

(2) in paragraph (13)—

(A) by striking ''The'' and inserting ''(A) Except as provided in subparagraph (B), the''; and

(B) by adding at the end the following:

''(B) For purposes of part G, the term 'State' means each of the 50 States and the Commonwealth of Puerto Rico.'';

(3) in paragraph (14), by adding at the end the following: ''For purposes of part G, the term includes any Native village (as defined in section 3(c) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(c))).''; and

(4) by adding at the end the following:

[''(15) The] *(15) COMMUNITY WATER SYSTEM.—The* term 'community water system' means a public water system that—

''(A) serves at least 15 service connections used by year-round residents of the area served by the system; or

''(B) regularly serves at least 25 year-round residents.

[''(16) The] *(16) NONCOMMUNITY WATER SYSTEM.—The* term 'noncommunity water system' means a public water system that is not a community water system.''.

(b) PUBLIC WATER SYSTEM.—

(1) IN GENERAL.—Section 1401(4) (42 U.S.C. 300f(4)) is amended—

(A) in the first sentence, by striking ''piped water for human consumption'' and inserting ''water for human consumption through pipes or other constructed conveyances'';

(B) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively;

(C) by striking ''(4) The'' and inserting the following:

''(4) PUBLIC WATER SYSTEM.—

''(A) IN GENERAL.—The''; and

(D) by adding at the end the following:

''(B) CONNECTIONS.—

''(i) RESIDENTIAL USE.—

''(I) IN GENERAL.—A connection described in subclause (II) shall not be considered to be a connection for determining whether the system is a public water system under this title, if—

''(aa) the Administrator or the State (in the case of a State exercising primary enforcement responsibility for public water systems) determines that alternative water to achieve the equivalent level of public health protection provided by the applicable national primary drinking water regulation is provided for residential or similar uses for drinking and cooking; or

''(bb) the Administrator or the State (in the case of a State exercising primary enforcement responsibility for public water systems) determines that the water provided for residential or similar uses for drinking and cooking is centrally treated or treated at the point of entry by the provider, a pass-through entity, or the user to achieve the equivalent level of protection provided by the applicable national primary drinking water regulations.

''(II) CONNECTIONS.—A connection referred to in this subclause is a connection to a water system that conveys water by a means other than a pipe principally for 1 or more purposes other than residential use (which other purposes include irrigation, stock watering, industrial use, or municipal source water prior to treatment)—

''(aa) for a residential use (consisting of drinking, bathing, cooking, or other similar use); or

''(bb) to a facility for a use similar to a residential use.

''(ii) IRRIGATION DISTRICTS.—An irrigation district in existence prior to May 18, 1994, that provides primarily agricultural service through a piped water system with only incidental residential use shall not be considered to be a public water system if the system

and the residential users of the system comply with subclauses (I) and (II) of clause (i).''.

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall take effect 1 year after the date of enactment of this Act.

SEC. 25. GROUND WATER PROTECTION.

(a) STATE GROUND WATER PROTECTION GRANTS.—Section 1443 (42 U.S.C. 300j–2) is amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by inserting after subsection (b) the following:

''(c) STATE GROUND WATER PROTECTION GRANTS.—

''(1) IN GENERAL.—The Administrator may make a grant to a State for the development and implementation of a State program to ensure the coordinated and comprehensive protection of ground water resources within the State.

''(2) GUIDANCE.—Not later than 1 year after the date of enactment of the Safe Drinking Water Act Amendments of 1995, and annually thereafter, the Administrator shall publish guidance that establishes procedures for application for State ground water protection program assistance and that identifies key elements of State ground water protection programs.

''(3) CONDITIONS OF GRANTS.—

''(A) IN GENERAL.—The Administrator shall award grants to States that submit an application that is approved by the Administrator. The Administrator shall determine the amount of a grant awarded pursuant to this paragraph on the basis of an assessment of the extent of ground water resources in the State and the likelihood that awarding the grant will result in sustained and reliable protection of ground water quality.

''(B) INNOVATIVE PROGRAM GRANTS.—The Administrator may also award a grant pursuant to this paragraph for innovative programs proposed by a State for the prevention of ground water contamination.

''(C) ALLOCATION OF FUNDS.—The Administrator shall, at a minimum, ensure that, for each fiscal year, not less than 1 percent of funds made available to the Administrator by appropriations to carry out this subsection are allocated to each State that submits an application that is approved by the Administrator pursuant to this subsection.

''(D) LIMITATION ON GRANTS.—No grant awarded by the Administrator may be used for a project to remediate ground water contamination.

''(4) COORDINATION WITH OTHER GRANT PROGRAMS.—The awarding of grants by the Administrator pursuant to this subsection shall be coordinated with the awarding of grants pursuant to section 319(i) of the Federal Water Pollution Control Act (33 U.S.C. 1329(i)) and the awarding of other Federal grant assistance that provides funding for programs related to ground water protection.

''(5) AMOUNT OF GRANTS.—The amount of a grant awarded pursuant to paragraph (1) shall not exceed 50 percent of the eligible costs of carrying out the ground water protection program that is the subject of the grant (as determined by the Administrator) for the 1-year period beginning on the date that the grant is awarded. The State shall pay a State share to cover the costs of the ground water protection program from State funds in an amount that is not less than 50 percent of the cost of conducting the program.

''(6) EVALUATIONS AND REPORTS.—Not later than 3 years after the date of enactment of the Safe Drinking Water Act Amendments of 1995, and every 3 years thereafter, the Administrator shall evaluate the State ground water protection programs that are the subject of grants awarded pursuant to this subsection and report to Congress on the status of ground water quality in the United States and the effectiveness of State programs for ground water protection.

''(7) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subsection $20,000,000 for each of fiscal years 1995 through 2003.''.

(b) CRITICAL AQUIFER PROTECTION.—Section 1427 (42 U.S.C. 300h–6) is amended—

(1) in subsection (b)(1), by striking ''not later than 24 months after the enactment of the Safe Drinking Water Act Amendments of 1986''; and

(2) in the first sentence of subsection (n), by adding at the end the following:

''1992–2003 ..... 20,000,000.''.

(c) WELLHEAD PROTECTION AREAS.—Section 1428(k) (42 U.S.C. 300h–7(k)) is amended by adding at the end the following:

''1992–2003 ..... 35,000,000.''.

(d) UNDERGROUND INJECTION CONTROL GRANT.—Section 1443(b)(5) (42 U.S.C. 300j–2(b)(5)) is amended by adding at the end the following:

''1992–2003 ..... 20,850,000.''.

(e) REPORT TO CONGRESS ON PRIVATE DRINKING WATER.—Section 1450 (42 U.S.C. 300j–9) is amended by striking subsection (h) and inserting the following:

''(h) REPORT TO CONGRESS ON PRIVATE DRINKING WATER.—The Administrator shall conduct a study to determine the extent and seriousness of contamination of private sources of drinking water that are not regulated under this title. Not later than 3 years after the date of enactment of the Safe Drinking Water Act Amendments of 1995, the Administrator shall submit to Congress a report that includes the findings of the study and recommendations by the Administrator concerning responses to any problems identified under the study. In designing and conducting the study, including consideration of research design, methodology, and conclusions and recommendations, the Administrator shall consult with experts outside the Agency, including scientists, hydrogeologists, well contractors and suppliers, and other individuals knowledgeable in ground water protection and remediation.''.

(f) NATIONAL CENTER FOR GROUND WATER RESEARCH.—The Administrator of the Environmental Protection Agency, acting through the Robert S. Kerr Environmental Research Laboratory, is authorized to reestablish a partnership between the Laboratory and the National Center for Ground Water Research, a university consortium, to conduct research, training, and technology transfer for ground water quality protection and restoration.

SEC. 26. LEAD PLUMBING AND PIPES; RETURN FLOWS.

(a) FITTINGS AND FIXTURES.—Section 1417 (42 U.S.C. 300g–6) is amended—

(1) in subsection (a)—

(A) by striking paragraph (1) and inserting the following:

''(1) PROHIBITIONS.—

''(A) IN GENERAL.—No person may use any pipe, any pipe or plumbing fitting or fixture, any solder, or any flux, after June 19, 1986, in the installation or repair of—

''(i) any public water system; or

''(ii) any plumbing in a residential or nonresidential facility providing water for human consumption,

that is not lead free (within the meaning of subsection (d)).

''(B) LEADED JOINTS.—Subparagraph (A) shall not apply to leaded joints necessary for the repair of cast iron pipes.'';

(B) in paragraph (2)(A), by inserting after ''Each'' the following: ''owner or operator of a''; and

(C) by adding at the end the following:

''(3) UNLAWFUL ACTS.—Effective 2 years after the date of enactment of this paragraph, it shall be unlawful—

''(A) for any person to introduce into commerce any pipe, or any pipe or plumbing fitting or fixture, that is not lead free, except for a pipe that is used in manufacturing or industrial processing;

''(B) for any person engaged in the business of selling plumbing supplies, except manufacturers, to sell solder or flux that is not lead free; or

''(C) for any person to introduce into commerce any solder or flux that is not lead free unless the solder or flux bears a prominent label stating that it is illegal to use the solder or flux in the installation or repair of any plumbing providing water for human consumption.'';

(2) in subsection (d)—

(A) in paragraph (1), by striking ''lead, and'' and inserting ''lead;'';

(B) in paragraph (2), by striking ''lead.'' and inserting ''lead; and''; and

(C) by adding at the end the following:

''(3) when used with respect to plumbing fittings and fixtures, refers to plumbing fittings and fixtures in compliance with standards established in accordance with subsection (e).''; and

(3) by adding at the end the following:

''(e) PLUMBING FITTINGS AND FIXTURES.—

''(1) IN GENERAL.—The Administrator shall provide accurate and timely technical information and assistance to qualified third-party certifiers in the development of voluntary standards and testing protocols for the leaching of lead from new plumbing fittings and fixtures that are intended by the manufacturer to dispense water for human ingestion.

''(2) STANDARDS.—

''(A) IN GENERAL.—If a voluntary standard for the leaching of lead is not established by the date that is 1 year after the date of enactment of this subsection, the Administrator shall, not later than 2 years after the date of enactment of this subsection, promulgate regulations setting a health-effects-based performance standard establishing maximum leaching levels from new plumbing fittings and fixtures that are intended by the manufacturer to dispense water for human ingestion. The standard shall become effective on the date that is 5 years after the date of promulgation of the standard.

''(B) ALTERNATIVE REQUIREMENT.—If regulations are required to be promulgated under subparagraph (A) and have not been promulgated by the date that is 5 years after the date of enactment of this subsection, no person may import, manufacture, process, or distribute in commerce a new plumbing fitting or fixture, intended by the manufacturer to dispense water for human ingestion, that contains more than 4 percent lead by dry weight.''.

(b) WATER RETURN FLOWS.—Section 3013 of Public Law 102–486 (42 U.S.C. 13551) is repealed.

(c) RECORDS AND INSPECTIONS.—Subparagraph (A) of section 1445(a)(1) (42 U.S.C. 300j–4(a)(1)) (as designated by section 19(a)(1)(A)) is amended by striking ''Every person'' and all that follows through ''is a grantee,'' and inserting ''Every person who is subject to any requirement of this title or who is a grantee''.

SEC. 27. BOTTLED WATER.

Section 410 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 349) is amended—

(1) by striking ''Whenever'' and inserting ''(a) Except as provided in subsection (b), whenever''; and

(2) by adding at the end the following:

''(b)(1) After the Administrator of the Environmental Protection Agency publishes a

proposed maximum contaminant level, but not later than 180 days after the Administrator of the Environmental Protection Agency publishes a final maximum contaminant level, for a contaminant under section 1412 of the Public Health Service Act (42 U.S.C. 300g–1), the Secretary, after public notice and comment, shall issue a regulation that establishes a quality level for the contaminant in bottled water or make a finding that a regulation is not necessary to protect the public health because the contaminant is contained in water in the public water systems (as defined under section 1401(4) of such Act (42 U.S.C. 300f(4)) and not in water used for bottled drinking water. *In the case of any contaminant for which a national primary drinking water regulation was promulgated before the date of enactment of the Safe Drinking Water Act Amendments of 1995, the Secretary shall issue the regulation or make the finding required by this paragraph not later than 1 year after that date.*

''(2) The regulation shall include any monitoring requirements that the Secretary determines to be appropriate for bottled water.

''(3) The regulation—

''(A) shall require that the quality level for the contaminant in bottled water be as stringent as the maximum contaminant level for the contaminant published by the Administrator of the Environmental Protection Agency; and

''(B) may require that the quality level be more stringent than the maximum contaminant level if necessary to provide ample public health protection under this Act.

''(4)(A) If the Secretary fails to establish a regulation within the 180-day period described in paragraph (1), the regulation with respect to the final maximum contaminant level published by the Administrator of the Environmental Protection Agency (as described in such paragraph) shall be considered, as of the date on which the Secretary is required to establish a regulation under paragraph (1), as the final regulation for the establishment of the quality level for a contaminant required under paragraph (1) for the purpose of establishing or amending a bottled water quality level standard with respect to the contaminant.

''(B) Not later than 30 days after the end of the 180-day period described in paragraph (1), the Secretary shall, with respect to a maximum contaminant level that is considered as a quality level under subparagraph (A), publish a notice in the Federal Register that sets forth the quality level and appropriate monitoring requirements required under paragraphs (1) and (2) and that provides that the quality level standard and requirements shall take effect on the date on which the final regulation of the maximum contaminant level takes effect.''.

SEC. 28. ASSESSING ENVIRONMENTAL PRIORITIES, COSTS, AND BENEFITS.

(a) DEFINITIONS.—In this section:

(1) ADMINISTRATOR.—The term ''Administrator'' means the Administrator of the Environmental Protection Agency.

(2) ADVERSE EFFECT ON HUMAN HEALTH.—The term ''adverse effect on human health'' includes any increase in the rate of death or serious illness, including disease, cancer, birth defects, reproductive dysfunction, developmental effects (including effects on the endocrine and nervous systems), and other impairments in bodily functions.

(3) RISK.—The term ''risk'' means the likelihood of an occurrence of an adverse effect on human health, the environment, or public welfare.

(4) SOURCE OF POLLUTION.—The term ''source of pollution'' means a category or class of facilities or activities that alter the chemical, physical, or biological character of the natural environment.

(b) FINDINGS.—Congress finds that—

(1) cost-benefit analysis and risk assessment are useful but imperfect tools that serve to enhance the information available in developing environmental regulations and programs;

(2) cost-benefit analysis and risk assessment can also serve as useful tools in setting priorities and evaluating the success of environmental protection programs;

(3) cost and risk are not the only factors that need to be considered in evaluating environmental programs, as other factors, including values and equity, must also be considered;

(4) cost-benefit analysis and risk assessment should be presented with a clear statement of the uncertainties in the analysis or assessment;

(5) current methods for valuing ecological resources and assessing intergenerational effects of sources of pollution need further development before integrated rankings of sources of pollution based on the factors referred to in paragraph (3) can be used with high levels of confidence;

(6) methods to assess and describe the risks of adverse human health effects, other than cancer, need further development before integrated rankings of sources of pollution based on the risk to human health can be used with high levels of confidence;

(7) periodic reports by the Administrator on the costs and benefits of regulations promulgated under Federal environmental laws, and other Federal actions with impacts on human health, the environment, or public welfare, will provide Congress and the general public with a better understanding of—

(A) national environmental priorities; and

(B) expenditures being made to achieve reductions in risk to human health, the environment, and public welfare; and

(8) periodic reports by the Administrator on the costs and benefits of environmental regulations will also—

(A) provide Congress and the general public with a better understanding of the strengths, weaknesses, and uncertainties of cost-benefit analysis and risk assessment and the research needed to reduce major uncertainties; and

(B) assist Congress and the general public in evaluating environmental protection regulations and programs, and other Federal actions with impacts on human health, the environment, or public welfare, to determine the extent to which the regulations, programs, and actions adequately and fairly protect affected segments of society.

(c) REPORT ON ENVIRONMENTAL PRIORITIES, COSTS, AND BENEFITS.—

(1) RANKING.—

(A) IN GENERAL.—The Administrator shall identify and, taking into account available data (to the extent practicable), rank sources of pollution with respect to the relative degree of risk of adverse effects on human health, the environment, and public welfare.

(B) METHOD OF RANKING.—In carrying out the rankings under subparagraph (A), the Administrator shall—

(i) rank the sources of pollution considering the extent and duration of the risk; and

(ii) take into account broad societal values, including the role of natural resources in sustaining economic activity into the future.

(2) EVALUATION OF REGULATORY AND OTHER COSTS.—In addition to carrying out the rankings under paragraph (1), the Administrator shall estimate the private and public costs associated with each source of pollution and the costs and benefits of complying with regulations designed to protect against risks associated with the sources of pollution.

(3) EVALUATION OF OTHER FEDERAL ACTIONS.—In addition to carrying out the requirements of paragraphs (1) and (2), the Administrator shall estimate the private and public costs and benefits associated with major Federal actions selected by the Administrator that have the most significant impact on human health or the environment, including direct development projects, grant and loan programs to support infrastructure construction and repair, and permits, licenses, and leases to use natural resources or to release pollution to the environment, and other similar actions.

(4) RISK REDUCTION OPPORTUNITIES.—In assessing risks, costs, and benefits as provided in paragraphs (1) and (2), the Administrator shall also identify reasonable opportunities to achieve significant risk reduction through modifications in environmental regulations and programs and other Federal actions with impacts on human health, the environment, or public welfare.

(5) UNCERTAINTIES.—In evaluating the risks referred to in paragraphs (1) and (2), the Administrator shall—

(A) identify the major uncertainties associated with the risks;

(B) explain the meaning of the uncertainties in terms of interpreting the ranking and evaluation; and

(C) determine—

(i) the type and nature of research that would likely reduce the uncertainties; and

(ii) the cost of conducting the research.

(6) CONSIDERATION OF BENEFITS.—In carrying out this section, the Administrator shall consider and, to the extent practicable, estimate the monetary value, and such other values as the Administrator determines to be appropriate, of the benefits associated with reducing risk to human health and the environment, including—

(A) avoiding premature mortality;

(B) avoiding cancer and noncancer diseases that reduce the quality of life;

(C) preserving biological diversity and the sustainability of ecological resources;

(D) maintaining an aesthetically pleasing environment;

(E) valuing services performed by ecosystems (such as flood mitigation, provision of food or material, or regulating the chemistry of the air or water) that, if lost or degraded, would have to be replaced by technology;

(F) avoiding other risks identified by the Administrator; and

(G) considering the benefits even if it is not possible to estimate the monetary value of the benefits in exact terms.

(7) REPORTS.—

(A) PRELIMINARY REPORT.—Not later than 1 year after the date of enactment of this Act, the Administrator shall report to Congress on the sources of pollution and other Federal actions that the Administrator will address, and the approaches and methodology the Administrator will use, in carrying out the rankings and evaluations under this section. The report shall also include an evaluation by the Administrator of the need for the development of methodologies to carry out the ranking.

(B) PERIODIC REPORT.—

(i) IN GENERAL.—On completion of the ranking and evaluations conducted by the Administrator under this section, but not later than 3 years after the date of enactment of this Act, and every 3 years thereafter, the Administrator shall report the findings of the rankings and evaluations to Congress and make the report available to the general public.

(ii) EVALUATION OF RISKS.—Each periodic report prepared pursuant to this subparagraph shall, to the extent practicable, evaluate risk management decisions under Federal environmental laws, including title XIV of the Public Health Service Act (commonly known as the ''Safe Drinking Water Act'') (42 U.S.C. 300f et seq.), that present inherent and unavoidable choices between competing risks, including risks of controlling microbial versus disinfection contaminants in drinking water. Each periodic report shall address the policy of the Administrator concerning the most appropriate methods of weighing and analyzing the risks, and shall incorporate information concerning—

(I) the severity and certainty of any adverse effect on human health, the environment, or public welfare;

(II) whether the effect is immediate or delayed;

(III) whether the burden associated with the adverse effect is borne disproportionately by a segment of the general population or spread evenly across the general population; and

(IV) whether a threatened adverse effect can be eliminated or remedied by the use of an alternative technology or a protection mechanism.

(d) IMPLEMENTATION.—In carrying out this section, the Administrator shall—

(1) consult with the appropriate officials of other Federal agencies and State and local governments, members of the academic community, representatives of regulated businesses and industry, representatives of citizen groups, and other knowledgeable individuals to develop, evaluate, and interpret scientific and economic information;

(2) make available to the general public the information on which rankings and evaluations under this section are based; and

(3) establish, not later than 2 years after the date of enactment of this Act, methods for determining costs and benefits of environmental regulations and other Federal actions, including the valuation of natural resources and intergenerational costs and benefits, by rule after notice and opportunity for public comment.

(e) REVIEW BY THE SCIENCE ADVISORY BOARD.—Before the Administrator submits a report prepared under this section to Congress, the Science Advisory Board, established by section 8 of the Environmental Research, Development, and Demonstration Act of 1978 (42 U.S.C. 4365), shall conduct a technical review of the report in a public session.

SEC. 29. OTHER AMENDMENTS.

(a) CAPITAL IMPROVEMENTS FOR THE WASHINGTON AQUEDUCT.—

(1) AUTHORIZATIONS.—

(A) AUTHORIZATION OF MODERNIZATION.—Subject to approval in, and in such amounts as may be provided in appropriations Acts, the Chief of Engineers of the Army Corps of Engineers is authorized to modernize the Washington Aqueduct.

(B) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Army Corps of Engineers borrowing authority in amounts sufficient to cover the full costs of modernizing the Washington Aqueduct. The borrowing authority shall be provided by the Secretary of the Treasury, under such terms and conditions as are established by the Secretary of the Treasury, after a series of contracts with each public water supply customer has been entered into under paragraph (2).

(2) CONTRACTS WITH PUBLIC WATER SUPPLY CUSTOMERS.—

(A) CONTRACTS TO REPAY CORPS DEBT.—To the extent provided in appropriations Acts, and in accordance with subparagraphs (B) and (C), the Chief of Engineers of the Army Corps of Engineers is authorized to enter into a series of contracts with each public water supply customer under which the customer commits to repay a pro-rata share of the principal and interest owed by the Army Corps of Engineers to the Secretary of the Treasury under paragraph (1). Under each of the contracts, the customer that enters into the contract shall commit to pay any additional amount necessary to fully offset the risk of default on the contract.

(B) OFFSETTING OF RISK OF DEFAULT.—Each contract under subparagraph (A) shall include such additional terms and conditions as the Secretary of the Treasury may require so that the value to the Government of the contracts is estimated to be equal to the obligational authority used by the Army Corps of Engineers for modernizing the Washington Aqueduct at the time that each series of contracts is entered into.

(C) OTHER CONDITIONS.—Each contract entered into under subparagraph (A) shall—

(i) provide that the public water supply customer pledges future income from fees assessed to operate and maintain the Washington Aqueduct;

(ii) provide the United States priority over all other creditors; and

(iii) include other conditions that the Secretary of the Treasury determines to be appropriate.

(3) BORROWING AUTHORITY.—Subject to an appropriation under paragraph (1)(B) and after entering into a series of contracts under paragraph (2), the Secretary, acting through the Chief of Engineers of the Army Corps of Engineers, shall seek borrowing authority from the Secretary of the Treasury under paragraph (1)(B).

(4) DEFINITIONS.—In this subsection:

(A) PUBLIC WATER SUPPLY CUSTOMER.—The term ''public water supply customer'' means the District of Columbia, the county of Arlington, Virginia, and the city of Falls Church, Virginia.

(B) VALUE TO THE GOVERNMENT.—The term ''value to the Government'' means the net present value of a contract under paragraph (2) calculated under the rules set forth in subparagraphs (A) and (B) of section 502(5) of the Congressional Budget Act of 1974 (2 U.S.C. 661a(5)), excluding section 502(5)(B)(i) of such Act, as though the contracts provided for the repayment of direct loans to the public water supply customers.

(C) WASHINGTON AQUEDUCT.—The term ''Washington Aqueduct'' means the water supply system of treatment plants, raw water intakes, conduits, reservoirs, transmission mains, and pumping stations owned by the Federal Government located in the metropolitan Washington, District of Columbia, area.

(b) DRINKING WATER ADVISORY COUNCIL.—The second sentence of section 1446(a) (42 U.S.C. 300j–6(a)) is amended by inserting before the period at the end the following: '', of which two such members shall be associated with small, rural public water systems''.

(c) SHORT TITLE.—

(1) IN GENERAL.—The title (42 U.S.C. 1401 et seq.) is amended by inserting after the title heading the following:

''SHORT TITLE

''SEC. 1400. This title may be cited as the 'Safe Drinking Water Act'.''.

(2) CONFORMING AMENDMENT.—Section 1 of Public Law 93–523 (88 Stat. 1660) is amended by inserting ''of 1974'' after ''Water Act''.

(d) TECHNICAL AMENDMENTS TO SECTION HEADINGS.—

(1) The section heading and subsection designation of subsection (a) of section 1417 (42 U.S.C. 300g–6) are amended to read as follows:

''PROHIBITION ON USE OF LEAD PIPES, FITTINGS, SOLDER, AND FLUX

''SEC. 1417. (a)''.

(2) The section heading and subsection designation of subsection (a) of section 1426 (42 U.S.C. 300h–5) are amended to read as follows:

''REGULATION OF STATE PROGRAMS

''SEC. 1426. (a)''.

(3) The section heading and subsection designation of subsection (a) of section 1427 (42 U.S.C. 300h–6) are amended to read as follows:

''SOLE SOURCE AQUIFER DEMONSTRATION PROGRAM

''SEC. 1427. (a)''.

(4) The section heading and subsection designation of subsection (a) of section 1428 (42 U.S.C. 300h–7) are amended to read as follows:

''STATE PROGRAMS TO ESTABLISH WELLHEAD PROTECTION AREAS

''SEC. 1428. (a)''.

(5) The section heading and subsection designation of subsection (a) of section 1432 (42 U.S.C. 300i–1) are amended to read as follows:

''TAMPERING WITH PUBLIC WATER SYSTEMS

''SEC. 1432. (a)''.

(6) The section heading and subsection designation of subsection (a) of section 1451 (42 U.S.C. 300j–11) are amended to read as follows:

''INDIAN TRIBES

''SEC. 1451. (a)''.

(7) The section heading and first word of section 1461 (42 U.S.C. 300j–21) are amended to read as follows:

''DEFINITIONS

''SEC. 1461. As''.

(8) The section heading and first word of section 1462 (42 U.S.C. 300j–22) are amended to read as follows:

''RECALL OF DRINKING WATER COOLERS WITH LEAD-LINED TANKS

''SEC. 1462. For''.

(9) The section heading and subsection designation of subsection (a) of section 1463 (42 U.S.C. 300j–23) are amended to read as follows:

''DRINKING WATER COOLERS CONTAINING LEAD

''SEC. 1463. (a)''.

(10) The section heading and subsection designation of subsection (a) of section 1464 (42 U.S.C. 300j–24) are amended to read as follows:

''LEAD CONTAMINATION IN SCHOOL DRINKING WATER

''SEC. 1464. (a)''.

(11) The section heading and subsection designation of subsection (a) of section 1465 (42 U.S.C. 300j–25) are amended to read as follows:

''FEDERAL ASSISTANCE FOR STATE PROGRAMS REGARDING LEAD CONTAMINATION IN SCHOOL DRINKING WATER

''SEC. 1465. (a)''.

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, we now have before us the Safe Drinking Water Act amendments of 1995, which is S. 1316. I am pleased to join with my colleagues to bring this bill to reauthorize the Safe Drinking Water Act. This legislation has broad bipartisan support. It has been a high priority for the Environment and Public Works Committee and was reported by unanimous vote; Democrats and Republicans in the committee voted for it 16–0.

We all agree that reform of the Safe Drinking Water Act is necessary. Public health protection has been strengthened by the many new standards that have been issued over the past few years. Of all the ways of keeping our public healthy, it seems to me few are more important than having the water that they drink be safe. But the pace of standard setting and the costs of new treatment and monitoring requirements have been a strain for water suppliers, especially smaller communities.

This bill includes many provisions to ease that strain on the smaller communities. There is a new grant program for drinking water revolving loan funds, which President Clinton first recommended. The States are authorized to reduce monitoring costs by developing their own testing requirements, tailored to meet the conditions in their region. This is very important. The States have this authority in this legislation.

Under this bill, States may also grant variances to the small systems that cannot afford to comply with national standards. Now, we are not rolling back health protections that are now provided. No existing standard will be weakened. The bill includes many new initiatives that will keep the national program moving forward. In the SRF grants—the State revolving loan fund grants—there are new programs to prevent pollution of source waters which are used for drinking water supply. There is a program to develop technical capacity in small systems.

The bill pushes hard for more and better science, including a research program to determine whether some groups, like children, pregnant women, or people with particular illnesses, are more likely to experience adverse effects from drinking water contaminants.

Mr. President, before describing the major provisions of the bill, I want to thank our colleagues for the hard work they have put into this legislation.

Senator KEMPTHORNE chairs the subcommittee that has jurisdiction over the drinking water program. Senator KEMPTHORNE is the principal author of this reauthorization bill and has spent months going over every detail of the legislation. So Senator KEMPTHORNE deserves tremendous credit for what we are bringing before the Senate today. I wish to take this opportunity to thank him.

Senator REID, the ranking member of the subcommittee, has been a partner in that effort and always has been very constructive.

Senator BAUCUS, the ranking member of the full committee, blazed the trail for us last year with the safe drinking water bill that passed the Senate 95–3.

The committee was assisted in the development of this bill by the fine staff of the Office of Water at EPA, including the Assistant Administrator for Water, Bob Perciasepe, and Cynthia Dougherty, who heads the drinking water office.

We also thank the many State and local drinking water officials and the representatives of their organizations who worked long and hard on this bill. Their expertise has been very helpful.

Mr. President, if we ask what is the one thing we can do that would most improve the safety of drinking water in the United States, I believe most of us would answer: Give some help to the small drinking water systems. If you can believe it, there are 54,000. I will repeat that. There are 54,000 small public water systems in our country.

What is a small system? It is one that serves fewer than 3,300 people. Some serve as few as 100 or 125 people, and some even 25 people. Some of these drinking water systems are owned by homeowners associations or trailer parks. Some are operated by town governments.

A significant number of these very small systems do not have the technical or financial resources to consistently provide safe drinking water. They cannot keep up with the testing and the treatment and the maintenance that is necessary to provide safe water every day. These are systems where the operator has no training, the consumers pay no fees for the water sometimes, and where the supply and distribution systems simply do not get the attention that is needed to keep contaminants out of the water.

The bill we are bringing before the Senate addresses this is problem in several ways. First, it establishes a grant program to provide Federal assistance to build the treatment plants that are essential to the provision of safe drinking water. EPA estimates that capital expenditures needed nationwide to comply with current requirements of the Safe Drinking Water Act total approximately $8.6 billion, that is, if we brought all the systems up to snuff, and approximately 40 percent of these expenditures will be required of small systems. Many systems are not able to build the treatment facilities to comply with these regulations unless they get some help.

Other Federal statutes mandating investment in local utility services have provided grant assistance to go along with the mandates. In other words, when we mandated from the Federal Government for clean water bills, for example, the Congress, which has provided help, and, indeed, in that particular example, the building of sewage treatment facilities, Congress has appropriated over the years $65 billion to meet the secondary treatment requirements required by 1972 amendments to the Clean Water Act. We have not provided any sort of similar assistance under the Safe Drinking Water Act in the past.

In early 1993, President Clinton proposed creation of a State-revolving loan fund for those funds for drinking water capital investments modeled after the Clean Water Act loans. This bill authorizes $600 million in fiscal year 1994 and $1 billion per year through fiscal year 2003 for this new SRF Program. This authorization is sufficient to cover the capital investments in treatment needed to comply with Federal health standards.

Priority funding would go to projects to address the most serious public health problems and to communities most in need. Who will get the money? Those communities that most need the help as determined by the States—not by big brother in Washington, but by the States—and those projects that needed to address the most serious health problems.

In contrast to the SRF Program under the Clean Water Act, States may provide grants to systems. In other words, from this State-revolving loan fund in this bill, in safe drinking water the State can give grants to systems that cannot afford to repay.

As a second step to help small systems, the bill asks each State to adopt what is known as a capacity development strategy to help the small systems.

What is this all about? A strategy might include training for the operators of drinking water systems, or technical assistance to develop new and safer water supplies, or it might encourage consolidation or regional management to make better use of the resources. We are relying on the States to take the lead in designing capacity strategies for the small systems.

This is not some heavyhanded mandate from Washington to the States, but, instead, it is up to the States. We do not, from Washington, enforce the direction of operators who do not get training, for example. But we suggest it be done and we give assistance to do it.

We are looking to the States, to the Governors, and to the legislatures to take the big steps. Here is a chance to show that a major problem can be resolved by the States through cooperation and incentives rather than by command and control from Washington. The ultimate judgment on the success or failure of this bill will depend in large part on what the States do with this opportunity.

There are several other provisions to help small systems. States are authorized to grant variances to small systems that cannot afford to comply with national primary drinking water regulations. A portion of the SRF funds may be set aside for technical assistance, as I mentioned, to small systems, and the cost of training operators may be included in the SRF grants or loan.

States may reduce monitoring requirements. This is very important. The States do not have to meet a certain steady monitoring system. They can reduce those requirements for many contaminants for small systems that do not detect a contaminant in the first test of a quarterly series.

There are two other major provisions in this bill that I wish to describe briefly. The first relates to the criteria that EPA uses to select contaminants for

regulation. The second concerns considerations that go into establishing national health standards. Because EPA failed to take action to set national standards for contaminants that were of public health concern, the 1986 amendments listed 83 specific contaminants and required EPA to set standards for those by 1989.

The legislation—here was a big problem with that legislation we passed—directed EPA to set standards for an additional 25 contaminants every 3 years beginning in 1991.

This single provision—that is, adding 25 new contaminants every 3 years—has provoked more critical comment than virtually any other element that we have dealt with in all the environmental laws we have. Some of the 83 contaminants for which standards are required occur so infrequently that the costs of monitoring far outweigh any health benefits that could be realized.

The mandate that EPA set standards for an additional 25 contaminants every 3 years, regardless of the threat posed by those contaminants, was for many the quintessential example of an arbitrary Federal law imposing burdens on consumers and the taxpayers with no rational relationship to the public benefit that might be realized. This bill repeals the requirement that EPA regulate an additional 25 contaminants every 3 years. Instead, there is a selection process that gives EPA the discretion to identify contaminants that warrant regulation in the future.

How do you do this selection process? Every 5 years EPA publishes a list of high-priority contaminants that should receive additional study.

EPA may require monitoring at public water systems for up to 20 unregulated contaminants, to gather information on the occurrence of these contaminants in public systems.

Decisions made by EPA under the act are to be guided by new principles for sound science.

EPA is to set aside $10 million from the annual appropriations for SRF, for the State-revolving fund grants, to conduct health effects research on contaminants that are candidates for regulation. In other words, EPA gives a hand with all of this.

Every 5 years, EPA is to make regulatory decisions for at least 5 contaminants, announcing whether they warrant regulation or not.

Finally, let me turn to the issue of standard setting. This has been the most contentious issue in this reauthorization debate. I believe the committee has developed a sound compromise that deserves the support of all Senators.

Under current law, EPA establishes drinking water standards through a two-step process. First, the administrator identifies the maximum contaminant level goal reflecting a concentration of the contaminants in drinking water at which no adverse effects will occur.

Then, the administrator sets an enforceable standard as close to this absolutely safe goal as possible, as feasible. ''Feasible,'' what does that mean? That the level can be reached by large regional water systems applying best available technology.

In other words, what is the policy to meet these goals. We do not use what the little systems can do, but what the big systems can do. EPA takes into account the costs to identify the best available technology.

The treatment system must be affordable. What is affordable? Well, they use the standard that it costs less than $100 per household per year for the large systems.

Now, this approach is all right because 80 percent of the population—this is a very important statistic—80 percent of the population of the United States receives its drinking water from large systems. Safe water can be provided to this 80 percent at an affordable cost. They can afford the best available technology. Indeed, the compliance cost for large cities average not $100 per household, but $20 per household per year.

However, there is a problem with this system. There are three problems. First, the treatment technology affordable to the large systems may be unaffordable to the small system and would push the per household cost way up for these small systems.

Second, for some contaminants, this approach to standard setting can impose large costs while producing only small gains in public health. Although the treatment technology may be entirely affordable for the large systems, the incremental health benefits of addressing the relatively small health risk presented by some contaminants do not justify the aggregate cost. It is just not worth it for the small systems because the benefit you get is so small for the cost.

Third, the use of some treatment technologies may actually increase risk from some contaminants. For example, chlorine is used to kill pathogenic organisms, but that may result in increased cancer risk from disinfection byproducts. In other words, you take care of something and it causes a greater risk of something else.

Now, read literally, the existing statute requires EPA to overcontrol some contaminants to a degree that overall public health risks from drinking water would be greater using this new technology. The bill we bring to the Senate today includes several provisions to respond to these problems in standard setting.

The States may provide variances to small systems. If it is all right for the big system, not very expensive because you have so many households, the States can say to the small systems: No, you do not have to do that. We give you a variance. EPA may balance competing risks from several contaminants if the treatment technology to control one would increase the risk from the other, which I just previously mentioned.

EPA may set standards at a level less stringent than ''feasible'' if the costs of a standard reflecting best available technology are not justified. In other words, this is not somebody in EPA saying you have to reach this standard even though the costs are astronomical. Costs can be figured in. There is a cost-benefit factor involved here. The unique characteristics and risks of some contaminants, including arsenic, radon, or sulfate, are addressed with special standard-setting provisions. Although the bill includes new risk assessment and cost-benefit considerations to address unresolved problems, EPA may not use this authority to relax any existing standard unless new science indicates that a less stringent standard would be equally protective.

It appears we have secured broad bipartisan support for a series of reforms to this act, a law that has, indeed, been controversial. Achieving this reflects the contributions of many Senators, as I mentioned. Reaching this degree of consensus has generated much controversy, and the fact that we have this unanimity so far is quite an achievement.

So, again, I congratulate Senator KEMPTHORNE for his work. I know he joins me in extending appreciation to Senator REID, Senator BAUCUS, and all the others I previously mentioned.

We are ready to go, Mr. President. I thank the Chair.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, first of all, I want to inform the Senate that the manager of the bill, Senator BAUCUS, is temporarily away from the floor and will return shortly.

The bill before this body is, of course, the Safe Drinking Water Act Amendments of this year, 1995. This legislation, I believe, is Congress at its finest. What I mean by that is that this is a bill that is brought to this point by building consensus. It was not easy. It was difficult. But I think the people in the State of Rhode Island, the people in the State of Montana, the people in the State of Idaho are well served with the way their Senators handled this legislation.

Whether we like it or not, legislation is the art of compromise. Legislation is the art of consensus building, and that is what this legislation is all about. This bill is not everything that I like. It is not everything, I am sure, that my colleagues, the Senator from Idaho and the Senators from Montana and Rhode Island, think is a perfect bill. But it is a good bill. It is a tremendous improvement over anything we have been able to do before.

Where there has been rancor among the parties on other items before the Senate, and even in our committee, this bill has been negotiated for the better part of a year and as a result of the negotiations, we have come up with this fine piece of legislation. This is a bipartisan effort. The Senate will address the drinking water problems of

this country in this legislation and, as a result of this bill passing—and I have every belief it will pass—the people of this country will be well served by having the assurance that the water they are drinking is safe.

I recognize, as I have indicated, that not everyone is going to be totally happy with what is in this legislation. But it is a good, sound, reasonable, rational piece of reform legislation. This is truly reform legislation. I support the bill for lots of reasons, but let me mention just a few of them.

This bill, all Members of the U.S. Senate should realize, represents a balance. It is a balance that has been reached, and I think it has been done with great thought and consideration. There is no question that we must begin with the presumption that water in the United States is not necessarily safe if you drink it. There are increasing threats of contamination and pollution.

I can remember, as a young boy, we would drive once in a while down to the river, the Colorado River. My father told me something that was certainly true in those days, that if the water was running, it was safe, you could drink it, because as the water progressed it was cleansed as it proceeded through the rocks and the pebbles and the bushes—it was clean. That is not the case anymore. Things are put in water so that the mere fact that it is running no longer makes it safe. I cannot tell my children the same thing my father told me about having safe drinking water.

So there are increasing threats of contamination and pollution. That is what this legislation is all about. The bill provides for drinking water standards and the means by which drinking water systems can meet the standards. Again, I repeat, this legislation is to allow people, when they drink water in the United States, to feel they are drinking safe water, that the contaminants have been removed and there are procedures to make that water safe.

The bill incorporates sound science into the Administrator's decisionmaking and contaminant regulations. The bill establishes, importantly, as has been clearly explained by the chairman of the committee, a revolving loan fund to assist drinking water systems in complying with drinking water standards. In accordance with the Unfunded Mandates Act, which the Senator from Idaho worked so hard in accomplishing, it establishes money for States and drinking water systems to help comply with the act. I think we should all be very careful of amendments that come on the floor today, that we do not violate what we have worked so hard to accomplish in this legislation; that is, we are not going to force upon the States and local governments things that they do not have the money to comply with. I think that should be the watchword of the amendments that are offered here today. We truly meant what we said when we passed the unfunded mandates legislation very early this year.

Even technical assistance funds for the small drinking water systems are provided for in set-asides. Additionally, States and local authorities are given greater flexibility, as, again, was explained so well by the chairman of the committee. States and local authorities are given greater flexibility in the implementation and development of their capacity development strategies. The bill also equips the Environmental Protection Agency with greater flexibility in setting drinking water standards that were based on peer-reviewed science, with the benefits and risks associated with contaminants. The Environmental Protection Agency will be focusing its scarce resources on important health risks that are grounded in valid science rather than spending all their time, effort and money on matters that really did not allow for us to arrive at the conclusion it was necessarily better water to drink.

I also want to make a few observations about the Environmental Protection Agency. I believe this agency has served this country well. It has been maligned, but wrongfully so, in my estimation. I do not think we should be passing laws out of fear of antagonism to an agency. I think this agency has had a noble mission, one part of which is to make sure that we have safe drinking water. We all recognize that reform and change must occur, and that is what they are doing with this legislation. I emphasize to my colleagues, there are certain things the Administrator has already initiated, reforming the Environmental Protection Agency generally.

The Safe Drinking Water Act Amendments of this year should not be about agency procedures and management, nor should the Safe Drinking Water Act be about regulatory reform issues that have dominated so much of the debate this year. This bill is about drinking water, about the water that we drink, our children drink, and our children's children will drink. That is what we should be talking about during this debate on this legislation: Will water be safer as a result of this legislation passing? That is, the drinking water that we all partake of, will it be safer as a result of this legislation?

This bill, I think, should either protect the drinking water of the homes and communities of this Nation, or we should not be here. I believe the chairman of the full committee, the ranking member, the chairman of the subcommittee and the ranking member, feel very strongly that this is good legislation that will make the water we drink safer.

There are other reasons I support this legislation. There are many small systems in Nevada, hundreds of small systems in Nevada. These systems must also be such that the water that comes out of those systems is safe drinking water.

Five years ago, on November 16, the President, President Bush, signed a very important bill. It settled a 100-year water war between the States of California and Nevada. It preserved the wetlands that had been in existence for up to 10,000 years, some 80,000 acres that had been drawn down to less than 1,000 acres and were very toxic in nature. We resolved that and resolved the problems of two Indian tribes, two endangered species, some agricultural problems we had, and solved some water problems for the cities of Reno and Sparks.

I mention how complicated that was, but the most difficult problem we had in the entire legislation was not the things I mentioned. It was not endangered species. It was not the wetlands. It was not all the other things I talked about. It was in the Lake Tahoe basin, in California and Nevada—it was what we did about those little water companies. Some of them were so small, as the chairman of the committee mentioned, they served 25 people. In Lake Tahoe there were over 100 water companies. In some of them the systems were so bad they had to leave the water running all year or the lines would freeze up. This legislation will allow those small water systems to have the assurance there will be safe drinking water. We are not going to force them into doing anything.

Since that time, a number of those companies have merged. We do not have the myriad of problems we had before. But, even if we did, this legislation takes into consideration small water companies like are in the Tahoe basin. So this legislation really, I believe, addresses the problems of rural America.

We, in Congress, address the problems of big cities. We spend almost all of our time on big cities. The State of Nevada, surprisingly, is the most urban State in America. Mr. President, 90 percent of the people in Nevada live in the metropolitan areas of Reno and Las Vegas. Yet we are the seventh largest State of all the 50 States. We have 73 million acres. But most of the land is not where most of the people are. Those people outside Reno and Las Vegas need the assurance they are going to have safe drinking water. I was born and raised in Searchlight, NV. It is a very small place. It is getting bigger. If you take all the little communities around Searchlight, they have 1,000 people. We want to make sure the people of Searchlight have safe drinking water. This legislation does that. This legislation really takes care of rural America. It does not neglect rural America or urban America as we do many times.

Is this good legislation? I think it is important legislation. It is reasonable reform. It benefits the communities and ensures the health and safety of Americans. It is legislation that is—I repeat—compromise legislation. This is not just a catchy phrase. But this is reasonable reform, and it is true reform.

Mr. President, I extend my congratulations to the chairman of the full

committee, and ranking member, and also the chairman of the subcommittee that I have worked with. He has been very reasonable. We have not agreed on everything all year, but he has made every effort to reach out to the rest of the subcommittee to make sure that we have all the input that we feel is necessary.

I say this with the tremendous difficulty which we are having now with all the money things—the continuing resolution and extending the debt limit. I think people, especially in the other body, can take a real lesson from what this legislation is all about. I do not think there is anyone that I have come across that has had stronger principles in the legislative process than the Senator from Rhode Island, and certainly the Senator from Idaho, but they have had to compromise in this legislation.

I say to the people in the other body as we are grinding down trying to work things out in the last few weeks of this legislative session—everyone, Democrat and Republican alike—that they can look at this legislation and say there is hope for the money problems we have in this country, if they follow as an example what we have done here.

This is true reform, and I think it is legislation that is at its best. I am happy to have been a part in this bill arriving to the point where it is now. This is good legislation.

I ask the Members, both Democrats and Republicans, to support this legislation.

Mr. KEMPTHORNE addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho is recognized.

Mr. KEMPTHORNE. Mr. President, I am pleased to stand here today in support of the Safe Drinking Water Act Amendments of 1995. I believe that this is a strong bill, that will improve public health, give States and local governments the authority and flexibility they need to target their scarce resources on high priority health risks, and lay the foundation for a safe and affordable drinking water supply into the 21st century.

Mr. President, this legislation is long overdue. Over the past year, I have heard from dozens of State and local officials, consumers, representatives from industry and even EPA. Their perspectives are different, but their message was a shared one: Virtually everyone agrees that the current law simply does not work. It does not target those contaminants most likely to be found in drinking water; it does not ensure that standards are set based on the best available, peer-reviewed science; and it does not provide States and local governments with the tools that they need to ensure that citizens have safe and affordable drinking water.

Jeffrey Wennberg, the mayor of Rutland, VT, said it best.

> There is no public health responsibility of greater concern to local elected officials than the provision of consistently safe, plentiful, and affordable drinking water. This is the only product or service that we provide that directly affects the health and well-being of every one of our constituents every day. Unfortunately, the Safe Drinking Water Act, as amended in 1986, has often confounded our efforts to meet this responsibility.

Federal policy makers agree. Former EPA Deputy Administrator Robert Sussman summed it up when he acknowledged that:

> Safe Drinking Water Act implementation has harmed the agency's credibility by becoming a potent symbol of the rigidity and costliness of Federal mandates on local governments and the overprotectiveness of the EPA standard setting process. Reforms should strive for maintaining environmental protection while achieving more flexibility in priority setting, lower compliance costs, and greater state and local involvement in decision making.

Many of the concerns raised by critics of the Safe Drinking Water Act are the direct result of unrealistic and in many cases overzealous mandates imposed by the 1986 amendments to the Safe Drinking Water Act. These amendments, although well-intentioned, went too far to one extreme—command and control regulation took the place of common sense. With the Federal Government at the helm, we imposed rule after rule on State and local governments, requiring them to spend literally billions of dollars to comply with burdensome Federal standards, often with little or no consideration of the true nature of the risk to public health, the cost of compliance, or the availability of less intrusive alternatives.

Yet, while we are asking States and local governments to devote scarce resources to safeguard against potentially remote risks, we are ignoring more immediate and real risks to public health and safety. In 1993, for example, a known disease-causing agent—cryptosporidium—contaminated the drinking water supply in Milwaukee, WI. Over 400,000 people became sick and 104 people died from the cryptosporidium outbreak. There have been other outbreaks of cryptosporidium contamination since then. Cryptosporidium was not regulated in 1993 and it still is not in 1995. Clearly, current law is not adequately protecting the public from true health threats. We need to do better. Americans should not get sick from their drinking water. It is time to change direction.

The bill we are here today to debate responds to the legitimate concerns that have been raised and provides important midterm corrections to a regulatory scheme mired in ill-focused, often unjustified and certainly costly mandates. It reflects months of negotiations with various stakeholders and the efforts of many of my colleagues, particularly Senator CHAFEE, the chairman of the Senate Environment and Public Works Committee, with whom it is a great pleasure for me to work, and I appreciated the comments he made in his opening statement this morning; Senator BAUCUS, the ranking member of the committee; Senator REID, the ranking member of the Senate Subcommittee on Drinking Water, Fisheries and Wildlife, of which I am the chairman. The partnership that HARRY REID and I have been able to forge I think suggests that there will be other successes which will come forward from that subcommittee, and I greatly appreciated his kind words this morning.

I also want to acknowledge Senator KERREY of Nebraska, who has been instrumental in the negotiations over drinking water reform. He was a catalyst toward a bipartisan effort here today. I appreciate the efforts of all of these individuals and the assistance over the past year.

In drafting this legislation, we were guided by three fundamental principles. First and most importantly, we wanted not only to preserve public health, but also to improve it. Second, we wanted to strengthen the partnership between the Federal Government and State and local officials who are primarily responsible for providing safe and affordable drinking water. And third, we would impose no unfunded mandates. The bill that is before the Senate today satisfies each of these principles.

Let me highlight a few of the key concepts of the legislation.

First, the legislation substantially strengthens current law to ensure that all Americans have safe and affordable drinking water. It revises the standard setting process so that the Administrator is no longer required arbitrarily to identify and regulate 25 new contaminants every 3 years. Instead, the Administrator is given the authority and flexibility to target her regulatory resources on those contaminants that are actually present, or likely to be present, in drinking water, and that, based upon the best available peer-reviewed science, are found to pose a real risk to public health. Once the Administrator has identified a contaminant of concern, the bill requires that she evaluate several regulatory options, taking into consideration both the benefits of each option and the real costs that will be borne by those responsible for complying with any new standards.

Our intent was simple. Drinking water standards should not be set just because they are technologically feasible as they are under current law; they must also be justifiable. If we are going to demand that our states, counties and towns spend billions of dollars to comply with new chlorine standards, for example, at the very least, we owe them the assurance that these are dollars well spent. We must be particularly sensitive to this when we apply, as we do in the Drinking Water Act, new standards to small communities that must already comply with and pay for numerous other Federal regulations. For example, one town in my home State of Idaho, McCall, with a

population of approximately 2,000, must invest in a new wastewater treatment plant, a new filtration system, and make improvements in its infrastructure to deliver drinking water. As one community leader told me, ''We've seen a 500-percent increase in our sewer rates, and we're struggling. If we have to go back and raise rates again, or float a bond, or whatever it takes to finance compliance with Federal requirements, we need to know that what we're being asked to do makes sense in terms of public health protection.'' As a former Mayor, I share his concerns.

By targeting scarce resources on regulating contaminants that truly threaten public health, and by tailoring drinking water standards to maximize the benefits of regulation for the cost, we increase the overall level of protection that we offer everyday users of drinking water.

The legislation also recognizes that in many cases, it is easier and more cost effective to prevent contaminants from getting into source water for a drinking water system, rather than to try to remove them by regulation after they are in the system. This bill encourages States to develop source water protection partnerships between community water systems and upstream stakeholders to anticipate and solve source water problems before they occur. These are voluntary, incentive-based partnerships. Our experience in my home State of Idaho has repeatedly demonstrated that these kinds of programs work, and work well. Locally-driven solutions that stakeholders themselves develop in a non-regulatory, nonadversarial setting will often achieve a far greater level of protection than otherwise through mandatory restrictions on land use or other regulations dictated by Federal agencies within the beltway. The bill's voluntary source water protection program provides another tool for States and local governments to improve public health, target local risks, and maximize resources.

The legislation also strengthens the existing partnership between the Federal Government and the States in implementing the Safe Drinking Water Act. It preserves the strong role for the Federal Government in developing drinking water standards, but for the first time gives States the flexibility to tailor Federal monitoring and other requirements to meet their specific needs. This is just good common sense. It makes no sense, for example, to require Idaho drinking water systems to spend thousands of dollars to monitor for a pesticide that may be used only on citrus crops.

The legislation also provides needed relief through a variance process to small, financially strapped systems. These systems, in certain circumstances, may use alternative, affordable treatment technologies that do not achieve full compliance with federal standards, provided that they achieve an overall level of improvement in their drinking water. These types of system specific adjustments are important because they allow States and local governments to target their scarce resources to achieve the greatest overall level of protection.

One of the most significant elements of this legislation is the commitment for the first time of Federal resources to assure that the nation's drinking water supply is safe. The legislation authorizes up to $1 billion annually for a State revolving loan fund, which the States then match with an additional 20 percent. These funds will be available to States and local drinking water systems to construct needed treatment facilities to comply with Federal standards. We recognize that many communities simply cannot advance the funds that are needed to respond to new regulations. The Federal loan fund gives them the initial boost that they need.

Importantly, the legislation also authorizes approximately $53 million for health effects research, including research on the health effects of cryptosporidium and disinfectants, and their potential effect on sensitive groups, like pregnant women, children, and those with serious illnesses. I believe that this research is essential to ensure that we continue to target our regulatory resources on true threats to public health, while making sure that we never let another cryptosporidium outbreak take us by surprise.

While flexibility, sound science, and reduced costs may be the watchwords of this legislation, it bears noting that the one term that you will not hear in connection with this bill is ''unfunded mandate.'' The 1986 Safe Drinking Water Act, by way of contrast, is the classic example of a Federal unfunded mandate that this Congress overwhelmingly rejected when we passed the Kempthorne-Glenn Unfunded Mandates Reform Act this year.

Using the 1986 law as a case study of an unfunded mandate, the Congressional Budget Office just last month issued a report which found that:

> State and local officials have voiced strong opposition in recent years to the growing number of Federal requirements. At the local level, environmental requirements are perceived to be particularly onerous, and the Safe Drinking Water Act is often cited as one of the most burdensome requirements.

The report concluded that the average cost of compliance with existing drinking standards is between $1.4 billion and $2.3 billion per year. It went on to note that compliance costs could increase substantially as a result of four proposed regulations that EPA is currently considering. In fact, compliance with just one of these proposed regulations alone—the so-called disinfectants and disinfection by-products rule—could cost drinking water systems as much as $2.6 billion dollars per year once it is fully implemented. Most systems cannot afford these kinds of costs, particularly since the CBO study makes it clear that it is extremely uncertain that these costs will reduce health risks.

Even without the Federal commitment of funds, there are in fact fewer mandates to fund than under current law.

The Congressional Budget Office has confirmed that this legislation does not impose unfunded mandates under the Unfunded Mandates Reform Act. In its analysis of this legislation, the CBO stated that the legislation's standard setting provisions, including the risk assessment and cost benefit language would ''lower the cost of compliance for local water systems.'' The CBO concluded that ''the bill would likely result in significant net savings to state and local governments.''

Make no mistake about it. This bill will work. It will improve public health and reduce our costs at the same time. Do not just take my word for it, though. Listen to those who are responsible for providing safe drinking water. They overwhelmingly support this legislation.

The National League of Cities has said that the legislation:

> will strengthen and revise the current law to assure that limited government resources are targeted on contaminants of public health concern that are actually found in the nation's drinking water supplies . . . The measure is creative and innovative in that for the first time it establishes a funding source to assist communities.

The American Water Works Association:

> believes that this legislation is a major step forward in the direction of better public health; safer drinking water; and more responsive government. The sensible reforms contained in this bill represent a common sense solution that supports both environmental protection and regulatory reform.

The Association of Metropolitan Water Agencies has praised the legislation, stating that it:

> opens the door on a new era of Federal lawmaking, where the Federal Government, States, and local government and the public entities responsible for implementing the law, can work together to solve problems that impact the entire Nation.

Even the EPA agrees. EPA Administrator Carol Browner recently appeared before the Senate Environment and Public Works Committee and testified that the agency is looking for a new drinking water law that ''will strengthen public health protection; provide improved regulatory flexibility; promote preventive efforts to keep the pollution and contamination out of our drinking water in the first place; and provide public funding to help communities upgrade their drinking water facilities.'' This legislation, in her words, provides a ''framework and is a step in the right direction'' to achieve these important goals.

In conclusion, Mr. President, we have taken an important step forward in improving the way in which we regulate drinking water. Does this legislation solve all the problems? Of course not. But it will bring common sense back into the standard setting process,

make it easier for states to comply with the most important requirements, streamline the bureaucracy, and reduce overall costs to most systems. And it will do all of this without jeopardizing public health. That is an achievement that we should all be extremely proud of.

I hope that you will join me and Senator CHAFEE, Senator BAUCUS, Senator REID, and Senator KERREY in taking this first step and support this legislation.

Mr. President, I yield the floor.

Mr. BAUCUS addressed the Chair.

The PRESIDING OFFICER (Mr. KEMPTHORNE). The Senator from Montana.

Mr. BAUCUS. Mr. President, I ask unanimous consent that Senator LEVIN be added as a cosponsor of the bill.

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

Mr. BAUCUS. Mr. President, today, the Senate begins consideration of S. 1316, a bill to reauthorize and reform the Safe Drinking Water Act.

We all understand the need to reform the Safe Drinking Water Act. It contains a number of provisions that are too rigid and too costly.

At the same time, we must protect public health. After all, this is not some theoretical exercise. We are talking about the water that we and our children drink. Two quarts a day, every day of our lives.

To my mind, this bill strikes the right balance.

It will reduce regulatory burdens. Unnecessary regulations, redtape.

At the same time, it will not jeopardize public health. In fact, in several important ways, it will increase protection of public health.

Before turning to details, I would like to take a few minutes to put this legislation in perspective.

Mr. President, Americans expect to be able to turn on the tap, fill a glass, and drink the water—without getting sick. They expect safe drinking water in their homes and in their local communities.

They expect safe drinking water when they move to a new community. They expect safe drinking water when they travel.

When people from Conrad, MT visit Billings, Spokane, or Boston, or when people come to visit their nation's capital, they expect to be able to drink the water without getting sick or without the worrying about getting sick.

Ever since 1974, the Safe Drinking Water Act has guided Federal, State and local efforts to assure that the water Americans drink is clean and pure. In the last several years, however, there has been growing concern that some provisions of the act misdirect Federal resources.

There also has been concern that the act imposes regulatory burdens that local water systems simply cannot comply with, no matter how hard they try. More specifically, critics of the act point to several flaws:

Local officials who operate drinking water systems, especially small systems, are buried under a mountain of redtape. The operators of these systems are trying to provide a basic public service to their neighbors. The job is difficult enough without monitoring requirements that cannot be met.

There is another problem: Technology costs have skyrocketed. Again, this is particularly a burden on those who operate small systems in rural areas.

These small systems have what the economists call limited economies of scale. They cannot spread their costs across a large number of ratepayers. Nevertheless, in many cases, it costs them just as much to comply with the law as it costs large urban systems who do spread their costs.

On top of all of this, the standards-setting system in current law keeps rolling along, with 25 new contaminants regulated every 3 years, whether they are needed or not. And we have not provided federal funds to help communities meet their increased obligations.

Because of all these problems, it seems that the Safe Drinking Water Act has become the very symbol of concern about unfunded mandates.

But we have to get beyond symbolism, to solutions.

That is exactly what this bill does.

Senator CHAFEE, Senator KEMPTHORNE, Senator REID and I have been working closely, with Senators on both sides of the aisle, with the Administration, with the environmental community, and with State and local groups.

As a result of this work, the bill before us today, S. 1316, makes significant improvements in the law.

It creates a new State revolving loan fund for drinking water. It reforms the standards-setting process and the monitoring requirements. It lightens the burdens on small communities, while continuing to protect public health.

It also addresses risk. We have had a lot of debates about risk assessment this year.

Risk assessment is not a magic answer to all our problems. But it can be an important tool, applied to specific problems.

This bill does that, by applying risk-based concepts to contaminant selection and standard-setting.

Mr. President, our Chairman, Senator CHAFEE, has described the provisions of the bill ably and in detail.

I would simply like to emphasize three features of the bill that I consider particularly important.

First, the bill creates a new revolving loan fund. We all talk about unfunded mandates. With this bill, we put some money where our mouths are.

The biggest problem facing drinking water systems, especially small systems, is the lack of funding to build adequate treatment facilities. They simply cannot afford to comply with the current requirements of the act.

To address this, the bill establishes a State Revolving Loan Fund similar to the Clean Water Act revolving fund.

The money can be used by all States to help communities comply with drinking water standards, restructure their operations, or find alternative sources of water.

The fund is authorized at a level of $600 million in fiscal year 1994, and thereafter at $1 billion annually through fiscal year 2003.

Initially, grants for the drinking water State revolving funds will be distributed according to the formula currently used to allocate Federal grants to States for drinking water oversight programs.

Beginning in fiscal year 1998, funds will be distributed according to the results of an EPA survey of drinking water needs.

Another thing about the SRF. It provides flexibility. States can respond to their own needs. They can provide grants to disadvantaged communities. They can offset a program shortfall.

They can help local water systems develop customized monitoring programs and source water programs.

And they can shift funds between their clean water or drinking water revolving loan funds, in order to meet their most pressing problems.

So we provide both funding and flexibility.

A second important feature is the bill's reform of the regulatory program.

For example, one of the most troublesome requirements, in all of our environmental laws, is the requirement that EPA regulate 25 additional drinking water contaminants every 3 years, whether or not those contaminants really threaten public health.

As a result, EPA is required to issue regulations that may impose high costs for little public health benefit.

The bill replaces that requirement with a new provision requiring EPA to periodically review the need to regulate additional contaminants. That way, we can focus our limited resources on the most important problems.

The bill also reforms monitoring requirements, the standard setting process, and other elements of the law.

In each case, the objective is to focus our resources on the most important problems.

The third important feature is special help for small community water systems.

In the country as a whole, more than 85 percent of the drinking water systems in this country are small.

In my home state of Montana, 688 of the 694 community water systems serve less than 10,000 people, and there is not one system serving more than 100,000 people.

While small systems only serve about 10 percent of the people, they bear about 40 percent of the cost of the Safe Drinking Water Act.

The bill provides special help to small systems that cannot afford to

comply with the drinking water regulations and can benefit from technologies geared specifically to the needs of small systems.

Here is how it would work. Any system serving 10,000 people or fewer may request a variance to install special small system technology identified by EPA. What this means is that if a small system cannot afford to comply with current regulations through conventional treatment, the system can comply with the act by installing affordable small system technology.

Small systems that seek a variance will be protected from financial penalties while their application is being reviewed, and they would have 3 years to install the affordable technology.

States approve the variance, but only if the technology provides adequate water quality and public health protection.

So small systems are not forced to use big city treatment. But they must fully protect public health.

Another way that this bill provides help to small systems is through technical assistance. Many small systems just need some advice on how to meet some of the requirements of the law or operate equipment. For example, the Rapelje water system in Yellowstone County, MT was advised through the technical assistance program in our State to install a pressure relief valve in its system, an action that will save the system a considerable amount in repairs.

This bill recognizes the importance of the technical assistance program for small systems by increasing the authorization for the program and allowing the States to use up to 2 percent of their SRF money for small system technical assistance.

Mr. President, putting all this together, the bill provides funding, reforms regulations, and recognizes the special problems of small rural systems.

But in doing so, it does not relax existing standards or weaken provisions of the act that are necessary to protect public health.

In fact, in addition to allowing EPA, States, and local communities to target resources to the greatest threats, the bill improves the act's enforcement and compliance provisions.

And it improves the important provisions that require water system operators to alert people about drinking water problems in their communities, especially problems that create health threats.

In summary, Mr. President, this bill is good news indeed.

And not only because it improves the Safe Drinking Water Act.

There is another reason. This bill shows that we can get something done around here.

During this Congress, most debates about the environment have deteriorated into pitched partisan battles. Both sides have hardened.

As a result, we have missed several opportunities to enact reasonable, balanced reforms that reduce regulatory burdens while improving environmental protection.

The bill before us today is a refreshing exception. Republicans and Democrats have worked together, cooperatively. Sure, it has taken time. There have been painstaking negotiations. There has been compromise.

But look at the result. We have been able to develop a bill that will result in meaningful reforms.

A bill that will protect public health. And a bill that the public can, with confidence, support.

I want to thank Senators CHAFEE, KEMPTHORNE, and REID for the work they have done to get this bill where it is today—unanimously reported from the Environment and Public Works Committee with more than 30 cosponsors.

I also want to thank the Administration and others for their hard work and spirit of cooperation.

And I look forward to working with all of my colleagues to pass this bill through the Senate and enact it into law.

Mr. President, here we are passing a very complicated, very important bill which dramatically affects a lot of small communities, and certainly every American, and yet there are very few Senators on the floor. There does not seem to be a lot of interest by some Senators to be here on the floor for this bill. Why is that? Basically, Mr. President, it is because this legislation, in addressing a real need, is done the right way.

What do I mean by the right way? I mean not demagoging the issue. Senators on both sides of the aisle have worked very, very hard, particularly with interest groups around the country that were very interested in addressing drinking water problems in our Nation—small communities, large communities, Governors, mayors, environmental groups. And these groups, in trying to find a solution to the tradeoff between, on the one hand, protection—making sure our water is safe and, on the other hand, regulation, that is, not requiring too much regulation, trying to find the balance. We have done just that; we have found a balance.

They have worked very, very hard. They have rolled up their sleeves. They have worked together to get the job done. And we are here today basically ratifying, putting together, that mutual effort of a lot of compromise on the part of a lot of people. That is often what happens around here. Those who really work hard and get the job done are not praised as much as they should be.

In this case, it is all the various groups and people. It is also the chairman of the committee, Senator CHAFEE, the present occupant of the Chair, Senator KEMPTHORNE, who chairs the subcommittee, also Senator REID, the ranking member of the subcommittee, and many other Senators who worked very hard, and their staffs particularly worked very hard to get their job done.

Now, what is the problem? What is the problem that this legislation addresses? Essentially, Mr. President, the problem is this. Over the years, Americans have become more and more demanding, as they should, that their water is safe. In 1986, they became quite concerned that the EPA, the administration at that time, was not quite doing the job that should have been done to make sure that our water in our country was safe. So the 1986 amendments to the Safe Drinking Water Act were passed. They were well-intended. They were amendments which directed the Environmental Protection Agency and directed States to significantly increase their standards, impose many more monitoring requirements. There were many more contaminants of concern identified than the EPA was setting standards for.

Essentially, to help reassure Americans, because the job was not getting done, we passed the 1986 amendments. I think it is fair to say that the 1986 amendments that Congress passed went too far. They went too far in requiring the Environmental Protection Agency and the States to set too many standards, to regulate too much, to monitor too much and, basically, did not address the essential problem, that is, how to assure safer water at an affordable cost.

For example, one of the provisions in the 1986 amendments was essentially to say, ''OK, EPA, we want you to set standards for at least 83 different contaminants.'' Up to that point, I think there were about 22 contaminants regulated. ''We want you to set standards for a total of 83, and beyond that, we want you, EPA, to set standards for 25 additional contaminants every 3 years.'' That is stupid. It is nuts. There is no way in the world any agency could begin to do that much, with a tremendous additional burden on the Environmental Protection Agency.

In addition, Mr. President, what was another consequence? Another consequence was the dramatic disproportionate cost for smaller communities. Let us just think a minute. If the EPA tells a water system in a community to monitor certain contaminants, and to set certain standards, and to essentially apply certain technology, regardless of the size of the system, it is very clear that the large cities are able to spread those costs out among many, many more people, so the cost per household is much lower. But if the very same monitoring requirements, the very same standards, and the very same requirements are imposed on smaller communities, it is clear there is no way in the world that a smaller community is going to be able to meet those very same standards, those very same requirements, without imposing a tremendous cost on individual households in that small system.

That is particularly a problem, Mr. President, in my State of Montana. We

have about 698—I think that is the figure—community water systems. Of those, I think about 660—I hope my figures are right—are communities of under 10,000 people. We are a small-system State, which means that the 1986 amendments imposed tremendous disproportionate requirements on small communities.

These are communities that want safe water. Sure, they want clean water. They want to do their best to make sure the water in their communities is just as safe, if not safer, than in big cities. But, my gosh, they are required to monitor for contaminants that do not exist. I have to tell you, monitoring may not sound like much, but it is very, very expensive to monitor for an individual contaminant. You multiply that for additional contaminants that may not be there—the law requires you to monitor for them anyway, spend the money anyway. It does not make any sense. In addition, the technologies that have to be installed are that much more expensive.

Another big problem that the 1986 amendments created is a problem that you heard many times from many people: unfunded mandates. That is Uncle Sam saying, ''OK, community, you do this, you are going to take these requirements, but we are not going to give you the money for it.'' It just was not fair.

As the occupant of the chair knows, this Congress, quite correctly, over the months earlier this year passed legislation to prohibit unfunded mandates. If my memory serves me correctly, one of the chief proponents of that legislation is the Senator from Idaho, and I commend him for it.

This bill tries to address that problem by setting up a State revolving loan fund. It is $600 million the first year, and then it gets to $1 billion. It basically says, ''OK, States, we are going to change some of the requirements we passed in 1986. In addition to that, we are going to provide funds in the State revolving loan funds so systems can pay for some of the costs to install these technologies.''

We are also saying to the States, ''Boy, you have lots of flexibility. You can pass money between the Safe Drinking Water Act revolving loan fund and the clean water revolving loan fund. You also can set up a technical assistance program to help smaller communities, even a grant program for smaller communities.'' There is a lot of flexibility here, as it should be.

I will not take too much more time. Let me say, this is an example where Government is working. Government does not always work—we all know that—but sometimes Government does work. Here is a situation where Government can work. It may not be perfect. There are probably some areas where this legislation could be improved upon on the margin, but mainly, it is a very good, solid effort to find a commonsense, balanced solution to assure Americans that their water in their communities is safe and affordable.

That is what this bill does. It accomplishes this result, because a lot of very good people have worked very, very hard, and they have not demagogued it and gone to the media. They just rolled up their sleeves and got the job done.

I particularly commend the chairman of the committee, Senator CHAFEE. He has been the captain of the ship. He is at the helm. He set the tone, the mood and the approach to all this. We are here because he has done that.

I very much hope—and this is the point the Senator from Nevada made earlier—that we can take this as an example or a paradigm of how to deal with other problems around here. As the Senator from Nevada pointed out, we are now locked in budget negotiations, a pitched battle, Republicans and Democrats, the Congress and the White House.

Basically, Americans just want us to get the job done. They want us to compromise. They want us to balance the budget within 7 years, but do it fairly, do it evenhandedly, so all Americans are participating together as we get the job done together, just as we have done in this bill.

Mr. President, this bill is a basic, commonsense, balanced solution of compromises, give and take, on both sides. We are getting the job done. I very much hope that the White House, I hope that the Congress, and, to be totally candid about this, I particularly hope the other body, particularly the majority party of the other body, in good faith sits down in these budget negotiations and compromises to get the job done.

In summary, Mr. President, I want to particularly thank some Montanans who have worked very hard on this legislation over the years. The first that comes to mind is Dan Kyle. Dan Kyle sat down with me at the Heritage Inn in Great Falls, MT, I guess 6, 7, 8 years ago, talking about how horrendously expensive it is, inappropriately expensive, for small systems to meet the Federal requirements. That was a long time ago. Dan Kyle has labored in the vineyards. He has worked very, very hard—I believe he is head of the Montana Rural Water Association—along with Ray Wadsworth and the rest of the Montana crew, and Jim Melsted. I know these same people exist in other States. I only know those three in Montana, and they have been just terrific. I want to compliment them particularly for their hard work. They are pretty proud that finally we got the job done.

I yield the floor.

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, first, I want to thank the distinguished ranking member of the committee, Senator BAUCUS, for his kind comments. I know that we all share the sentiments that we work together to get something done. We are very fortunate in this committee to have a heritage, if you will, of cooperation. It has extended way back to Jennings Randolph and then to Bob Stafford, to Senator PAT MOYNIHAN, and to the distinguished Senator from Montana himself when he was chairman of this committee. We have always tried to bring things out with bipartisan consensus, so we can move ahead. This legislation represents that.

I am very pleased to be chairman of this committee when we have this heritage that I mentioned, and I want to pledge to all that I will continue that effort to bring everybody together, listen to each side and then have something—we will not always be as successful as this, 16 to 0 in the committee, not a single dissenting vote from either side. That is what we want to use as a standard for the future.

When the distinguished ranking member was chairman of the committee and brought this bill to the floor a year ago, it passed 93 to 3. It is pretty hard to beat that. If we can emulate that today or tomorrow, I will be very, very happy.

COMMITTEE AMENDMENTS, EN BLOC

Mr. CHAFEE. Mr. President, I ask unanimous consent that the committee amendments be adopted, en bloc, and that the bill, as amended, by the committee amendments then be considered original text for the purpose of additional amendments.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

So, the committee amendments, en bloc, were agreed to.

AMENDMENT NO. 3068

(Purpose: To authorize listing of point-of-use treatment devices as best available technology, modify loan authorities for the SRF program, clarify the definition of public water system, and for other purposes)

Mr. CHAFEE. Mr. President, I send a managers' amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Rhode Island [Mr. CHAFEE], for himself, Mr. KEMPTHORNE, Mr. BAUCUS, and Mr. REID, proposes an amendment numbered 3068.

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

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

The amendment is as follows:

On page 19, line 23, insert ''(or, in the case of privately-owned system, demonstrate that there is adequate security)'' after ''source of revenue''.

On page 20, line 24, insert ''and'' after ''fund;''.

On page 21, strike lines 1 through 4.

On page 21, line 5, strike ''(6)'' and insert ''(5)''.

On page 42, line 16, strike ''title'' and insert ''section, and, to the degree that an Agency action is based on science, in carrying out this title,''.

On page 69, line 24, strike ''level,'' and insert ''level or treatment technique,''.

On page 69, line 25, insert ''or point-of-use'' after ''point-of-entry''.

On page 70, line 1, strike ''controlled by the public water system'' and insert ''owned, controlled and maintained by the public water system or by a person under contract with the public water system''.

On page 70, line 6, strike ''problems.'' and insert ''problems. The Administrator shall not include in the list any point-of-use treatment technology, treatment technique, or other means to achieve compliance with a maximum contaminant level or treatment technique requirement for a microbial contaminant (or an indicator of a microbial contaminant). If the American National Standards Institute has issued product standards applicable to a specific type of point-of-entry or point-of-use treatment device, individual units of that type shall not be accepted for compliance with a maximum contaminant level or treatment technique requirement unless they are independently certified in accordance with such standards.''

Beginning on page 165, line 20, strike all through line page 166, line 2, and insert the following:

''(i) IN GENERAL.—For purposes of subparagraph (A), a connection to a system that delivers water by a constructed conveyance other than a pipe shall not be considered a connection, if—

''(I) the water is used exclusively for purposes other than residential uses (consisting of drinking, bathing, and cooking, or other similar uses);''.

On page 166, line 3, strike ''(aa)'' and insert ''(II)''.

On page 166, line 15, strike ''(bb)'' and insert ''(III)''.

Beginning on page 167, line 5, strike all through page 167, line 19.

On page 168, line 1, strike ''and'' and insert ''or''.

On page 168, lines 2 and 3, strike ''(I) and (II)'' and insert ''(II) and (III)''.

On page 168, line 3, strike ''and'' and insert ''or''.

On page 168, strike lines 4 through 6 and insert the following:

''(C) TRANSITION PERIOD.—A water supplier that would be a public water system only as a result of modifications made to this paragraph by the Safe Drinking Water Act Amendments of 1995 shall not be considered a public water system for purposes of the Act until the date that is two years after the date of enactment of this subparagraph, if during such two-year period the water supplier complies with the monitoring requirements of the Surface Water Treatment Rule and no indicator of microbial contamination is exceeded during that period. If a water supplier does not serve 15 service connections (as defined in subparagraphs (A) and (B)) or 25 people at any time after the conclusion of the two-year period, the water supplier shall not be considered a public water system.''.

On page 178, line 21, strike ''180-day''.

On page 179, lines 6 and 7, strike ''180-day''.

On page 179, line 15, strike ''effect.'' and insert ''effect or 18 months after the notice is issued pursuant to this subparagraph, whichever is later.''.

On page 195, after line 20, insert the following:

''(e) PREVENTION AND CONTROL OF ZEBRA, MUSSEL INFESTATION OF LAKE CHAMPLAIN.—

''(1) FINDINGS.—Section 1002(a) of the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 (16 U.S.C. 4701(a)) is amended—

''(A) by striking ''and'' at the end of paragraph (3);

''(B) by striking the period at the end of paragraph (4) and inserting ''; and''; and

''(C) by adding at the end the following new paragraph:

''(5) the zebra mussel was discovered on Lake Champlain during 1993 and the opportunity exists to act quickly to establish zebra mussel controls before Lake Champlain is further infested and management costs escalate.''.

''(2) EX-OFFICIO MEMBERS OF AQUATIC NUISANCE SPECIES TASK FORCE.—Section 1201(c) of such Act (16 U.S.C. 4721(c)) is amended by inserting '', the Lake Champlain Basin Program,'' after ''Great Lakes Commission''.

''(3) AQUATIC NUISANCE SPECIES PROGRAM.—Subsections (b)(6) and (i)(1) of section 1202 of such Act (16 U.S.C. 4722) is amended by inserting '', Lake Champlain,'' after ''Great Lakes'' each place it appears.

''(4) AUTHORIZATION OF APPROPRIATIONS.—Section 1301(b) of such Act (16 U.S.C. 4741(b)) is amended—

''(A) in paragraph (3), by inserting '', and the Lake Champlain Research Consortium,'' after ''Laboratory''; and

''(B) in paragraph (4)(A)—

''(i) by inserting after ''(33 U.S.C. 1121 et seq.)'' the following: ''and grants to colleges for the benefit of agriculture and the mechanic arts referred to in the first section of the Act of August 30, 1890 (26 Stat. 417, chapter 841; 7 U.S.C. 322) ''; and

''(ii) by inserting ''and the Lake Champlain basin'' after ''Great Lakes region''.

On page 195, after line 20, insert the following:

''(f) SOUTHWEST CENTER FOR ENVIRONMENTAL RESEARCH AND POLICY.—

''(1) ESTABLISHMENT OF CENTER.—The Administrator of the Environmental Protection Agency shall take such action as may be necessary to establish the Southwest Center for Environmental Research and Policy (hereinafter referred to as 'the Center').

''(2) MEMBERS OF THE CENTER.—The Center shall consist of a consortium of American and Mexican universities, including New Mexico State University; the University of Utah; the University of Texas at El Paso; San Diego State University; Arizona State University; and four educational institutions in Mexico.

''(3) FUNCTIONS.—Among its functions, the Center shall—

''(A) conduct research and development programs, projects and activities, including training and community service, on U.S.-Mexico border environmental issues, with particular emphasis on water quality and safe drinking water;

''(B) provide objective, independent assistance to the EPA and other Federal, State and local agencies involved in environmental policy, research, training and enforcement, including matters affecting water quality and safe drinking water throughout the southwest border region of the United States; and

''(C) help to coordinate and facilitate the improvement of environmental policies and programs between the United States and Mexico, including water quality and safe drinking water policies and programs.

''(4) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Administrator $10,000,000 for each of the fiscal years 1996 through 2003 to carry out the programs, projects and activities of the Center. Funds made available pursuant to this paragraph shall be distributed by the Administrator to the university members of the Center located in the United States.''.

On page 195, after line 20, insert the following:

''(g) ESTROGENIC SUBSTANCES SCREENING PROGRAM.—

''(1) DEVELOPMENT.—Not later than 1 year after the date of enactment of this subsection, the Administrator shall develop a screening program, using appropriate validated test systems, to determine whether certain substances may have an effect in humans that is similar to an effect produced by a naturally occurring estrogen, or such other endocrine effect as the Administrator may designate.

''(2) IMPLEMENTATION.—Not later than 2 years after the date of enactment of this subsection, after obtaining review of the screening program described in paragraph (1) by the scientific advisory panel established under section 25(d) of the Act of June 25, 1947 (chapter 125), and the Science Advisory Board established by section 8 of the Environmental Research, Development, and Demonstration Act of 1978 (42 U.S.C. 4365), the Administrator shall implement the program.

''(3) SUBSTANCES.—In carrying out the screening program described in paragraph (1), the Administrator shall provide for the testing of all active and inert ingredients used in products described in section 103(e) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9603(e)), and may provide for the testing of any other substance if the Administrator determines that a widespread population may be exposed to the substance.

''(4) EXEMPTION.—Notwithstanding paragraph (3), the Administrator may, by regulation, exempt from the requirements of this subsection a biologic substance or other substance if the Administrator determines that the substance does not have any effect in humans similar to an effect produced by a naturally occurring estrogen.

''(5) COLLECTION OF INFORMATION.—

''(A) IN GENERAL.—The Administrator shall issue an order to a person that manufactures a substance for which testing is required under this subsection to conduct testing in accordance with the screening program described in paragraph (1), and submit information obtained from the testing to the Administrator, within a time period that the Administrator determines is sufficient for the generation of the information.

''(B) FAILURE TO SUBMIT INFORMATION.—

''(i) SUSPENSION.—If a person referred to in subparagraph (A) fails to submit the information required under such subparagraph within the time period established by the order, the Administrator shall issue a notice of intent to suspend the sale or distribution of the substance by the person. Any suspension proposed under this subparagraph shall become final at the end of the 30-day period beginning on the date that the person receives the notice of intent to suspend, unless during that period a person adversely affected by the notice requests a hearing or the Administrator determines that the person referred to in subparagraph (A) has complied fully with this paragraph.

''(ii) HEARING.—If a person requests a hearing under clause (i), the hearing shall be conducted in accordance with section 554 of title 5, United States Code. The only matter for resolution at the hearing shall be whether the person has failed to submit information required under this paragraph. A decision by the Administrator after completion of a hearing shall be considered to be a final agency action.

''(iii) TERMINATION OF SUSPENSIONS.—The Administrator shall terminate a suspension under this subparagraph issued with respect to a person if the Administrator determines that the person has complied with this paragraph.

''(6) AGENCY ACTION.—In the case of any substance that is found to have a potential adverse effect on humans as a result of testing and evaluation under this subsection, the Administrator shall take such action, including appropriate regulatory action by rule or by order under statutory authority

available to the Administrator, as is necessary to ensure the protection of public health.

''(7) REPORT TO CONGRESS.—Not later than 4 years after the date of enactment of this subsection, the Administrator shall prepare and submit to Congress a report containing—

''(A) the findings of the Administrator resulting from the screening program described in paragraph (1);

''(B) recommendations for further testing and research needed to evaluate the impact on human health of the substances tested under the screening program; and

''(C) recommendations for any further actions (including any action described in paragraph (6)) that the Administrator determines are appropriate based on the findings.''.

Mr. CHAFEE. Mr. President, let me briefly say what this is. The managers' amendment does the following: It clarifies the new definition for the term ''public water system.'' It strengthens standard setting for bottled water as recommended by the bottled water industry. It allows EPA to list more cost-effective, point-of-use treatment devices as best available technology; it includes Lake Champlain in the program to control the infestation of zebra mussels in the Great Lakes; it authorizes assistance to a university consortium called the Southwest Center for Environmental Research and Policy; it requires EPA to conduct a screening program for the estrogenic effects of pesticides, and it makes two changes to the loan provisions of the new SRF program, State revolving loan fund program. Overall, it clears seven issues that Senators have brought to our attention.

So, Mr. President, I urge adoption of the managers' amendment.

Mr. BAUCUS. Mr. President, these provisions under the managers' amendment are essentially technical and clarification amendments, which Senator CHAFEE, myself, Senator REID, and the occupant of the chair I know has also looked at. I think they are good improvements to the bill.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 3068) was agreed to.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 3069

(Purpose: To require additional research prior to the promulgation of a standard for sulfate)

Mr. CHAFEE. Mr. President, I send an additional managers' amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Rhode Island [Mr. CHAFEE], for himself, Mr. KEMPTHORNE, Mr. BAUCUS, and Mr. REID, proposes an amendment numbered 3069.

Mr. CHAFEE. 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:

Beginning on page 61, line 11, strike all through page 62, line 16, and insert:

''(A) ADDITIONAL RESEARCH.—Prior to promulgating a national primary drinking water regulation for sulfate the Administrator and the Director of the Centers for Disease Control shall jointly conduct additional research to establish a reliable dose-response relationship for the adverse health effects that may result from exposure to sulfate in drinking water, including the health effects that may be experienced by groups within the general population (including infants and travelers) that are potentially at greater risk of adverse health effects as the result of such exposure. The research shall be conducted in consultation with interested States, shall be based on the best available, peer-reviewed science and supporting studies conducted in accordance with sound and objective scientific practices and shall be completed not later than 30 months after the date of enactment of this paragraph.

''(B) PROPOSED AND FINAL RULE.—Prior to promulgating a national primary drinking water regulation for sulfate and after consultation with interested States, the Administrator shall publish a notice of proposed rulemaking that shall supersede the proposal published in December, 1994. For purposes of the proposed and final rule, the Administrator may specify in the regulation requirements for public notification and options for the provision of alternative water supplies to populations at risk as a means of complying with the regulation in lieu of a best available treatment technology or other means. The Administrator shall, pursuant to the authorities of this subsection and after notice and opportunity of public comment, promulgate a final national primary drinking water regulation for sulfate not later than 48 months after the date of enactment of this paragraph.''.

Mr. CHAFEE. Mr. President, let me explain this amendment. What it does is it modifies the standard-setting provisions of the bill for one contaminant, sulfate.

What is sulfate? It is a naturally occurring substance that contaminates some groundwater used for drinking water, particularly in the Western States.

The 1986 amendments required EPA to issue a standard for sulfates. It is one of the 83 contaminants we previously discussed. But EPA has not completed the job yet. Part of the problem has been inadequate scientific information on the adverse health effects caused by sulfate. We know that adverse effects occur, but we do not know exactly what concentration levels must occur to cause the effects.

This amendment requires EPA and the Centers for Disease Control to collect more information before a standard is set. The amendment also delays the deadline for issuing a standard so that this research might be completed. Senators PRESSLER and DASCHLE from South Dakota and Senator GRAMS from Minnesota have expressed particular interest in resolving the scientific questions associated with sulfate, and we thank them for their interest and help in preparing this amendment.

Mr. BAUCUS. Mr. President, we have examined the amendment and think it is a good improvement. I urge its adoption.

Mr. PRESSLER. Mr. President, I rise today to commend Chairman CHAFEE, Subcommittee Chairman KEMPTHORNE, and Senator BAUCUS, as ranking member of this committee, for their hard work in drafting this bill. Certainly, we need a uniform system of Federal laws and regulations to maintain the public health and safety of our drinking water. These laws must be reasonable. They must make sense.

The bill before us, S. 1316, would go a long way to bring common sense to safe drinking water regulations. This is good news for small cities and rural communities. For example, S. 1316 would require the EPA to provide sound scientific background for future drinking water standards. In addition, this legislation would grant flexibility to small water systems that cannot always afford the expensive treatment technology to comply with Federal regulations.

S. 1316 represents a reasonable approach to drinking water regulation.

I am particularly pleased that my colleagues agreed to improve the original language in section 9, regarding the levels of sulfates allowed in drinking water supplies. This original provision would have required that communities provide bottled water as an alternative to water containing sulfate. This provision is similar to a proposed Environmental Protection Agency regulation that would require communities to limit sulfate in drinking water. However, there is no scientific study to prove that these low levels of sulfate in drinking water result in negative health affects.

As originally drafted, the bill would have affected roughly one-quarter of all the water systems in South Dakota—108 of the 483 water systems in the State. The South Dakota Department of Environment and Natural Resources [DENR], which opposed both section 9 and the EPA's proposed sulfate rule, has estimated that the costs of compliance for those affected water systems would have been 40 to 60 million. That was just the initial cost of compliance. Small, rural communities in South Dakota should not be forced to pay such a high price to enforce a regulation that has no valid scientific justification.

Let me put these figures in real terms we can all understand. The largest of the 108 affected South Dakota communities would have been Madison, with a population of 6,395 people. Currently, the average water bill for each household in Madison is $13.75 per month. According to the South Dakota DENR, if the original section 9 were enacted, the additional cost to each household would have been almost $14 per month. That would have meant an average monthly water bill of $27.75—a 101 percent increase. Remember, this figure is for the largest of the affected communities.

Let us take Big Stone City, SD, as another example. With a population of

670 people, Big Stone City has the median population of the 108 communities in South Dakota affected by the original sulfate proposal. Currently, the average monthly water bill per household in Big Stone City is $9.80. If the original section 9 were to become law, each household in that community would have seen its water bill rise about $12.00, for a total monthly bill of $21.80. That would be a dramatic 122 percent increase. Just imagine the impact this provision could have on communities even smaller than Big Stone City.

Mr. President, what would these communities have gotten in return for these shocking rate increases? Nothing. That is right. Nothing. For years, South Dakotans have been drinking water containing sulfate with no apparent adverse health effects.

In response to the concerns of my constituents, my colleagues on the committee agreed to suspend the current EPA rule. Instead, additional research conducted jointly by the Centers for Disease Control and the EPA would be required on the health affects of various dose levels of sulfate in drinking water on the broader population. The EPA then would propose a new regulatory standard for sulfate based on the findings of this study, and on the standards set forth by this bill.

I am convinced that this additional study will prove once and for all that the sulfate which occurs naturally in much of South Dakota's drinking water causes no harmful side affects. The revised sulfate provisions of section 9 also have received the endorsement of the South Dakota Department of Environment and Natural Resources, and the South Dakota Municipal League.

Mr. President, like all Americans, South Dakotans certainly want safe and healthy drinking water. But they also want Federal rules that are reasonable, understandable and flexible.

By passing this bill, we are finally taking much-needed steps to solve the problems associated with the current safe drinking water law. I am happy that I was able to work with the chairman to develop sensible language to reduce the impact of burdensome sulfate regulations on small cities and rural water systems in South Dakota and other States.

Again, I thank Chairman CHAFEE for his leadership and for accommodating the concerns of my constituents. I also want to thank my friend from Minnesota, Senator GRAMS, for working with me to ensure that we achieve a commonsense legislative solution on this matter.

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

The amendment (No. 3069) was agreed to.

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

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

The motion to lay on the table was agreed to.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MURKOWSKI. 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. MURKOWSKI. Mr. President, my staff has been working with the floor leaders on S. 1316, the Safe Drinking Water Act, relative to an amendment which has been discussed at some length. I am sure the chairman of the Environment and Public Works Committee will respond to the status of the amendment. But it would authorize the administrator of the Environmental Protection Agency to make grants. May I check with the floor leader relative to the status of my amendment authorizing the Administrator of the Environmental Protection Agency to make grants to Alaska to improve rural sanitation by paying the Federal share, 50 percent, of the cost of those improvements?

I would like to offer the amendment, if the leader has not offered it and speak very briefly on it.

Mr. CHAFEE. Mr. President, the Senator from Alaska had two amendments and both of those, it is my understanding, could be resolved and accepted. Frankly, we are in the midst of working that out now.

Why not go ahead and describe the amendment, and at the conclusion of the Senator's description maybe we can arrive at a position where the amendment could be accepted.

Mr. MURKOWSKI. I thank the Senator.

Mr. President, my amendment authorizes the Administrator of the Environmental Protection Agency to make grants to Alaska because of the unique rural sanitation conditions in my State. It would improve rural sanitation by assisting with the Federal share—50 percent—of the costs of specifically two items. One, the development and construction of water and wastewater systems, and second, the training, technical assistance, and educational programs relating to the operation and management of sanitation services.

The purpose of the amendment is to ensure future funds are provided to improve Alaska's rural sanitation conditions. Our delegation—Senator STEVENS, Representative YOUNG, and myself—have supported $15 million in the EPA's budget this year for rural sanitation, and Senator STEVENS on the Appropriations Committee has obtained appropriations in previous years. The problem we have is that the residents of rural Alaska simply do not have adequate drinking water or sanitation facilities. As a consequence, we have an abnormally high amount of sickness and disease, and on some occasions, conditions can be compared to some Third World countries, unfortunately.

It is estimated that about one-fourth of Alaska's 86,000 Native residents live without running water and use plastic buckets for toilets. These are commonly called ''honey buckets.'' As a consequence, Mr. President, we have had numerous cases of hepatitis A among villagers, in some instances causing death.

I have a chart here which depicts the level of existing wastewater services in rural Alaska communities, and as the Chair will note the area in dark blue indicates about 49 percent of the chart, which is the area of the population dependent on pit privies or honey buckets; 37 percent have flush toilets; 14 percent have a haul system where the honey bucket man comes once a week and hauls the sewage away.

In over half of the villages in Alaska, water is hauled to the home by hand from a washeteria, watering points, or from a creek or river. A washeteria is a centrally located community building with washing and drying machines, showers, and so forth. Often times, Mr. President, the trash can is used as a water storage tank. Water for drinking, hand washing, and doing dishes comes from this household trash can, and you can imagine the potential for disease as a consequence of that type of transmission. Existing water service levels in rural Alaska have improved, but they have a long way to go. Only 40 percent of rural Alaska has piped water to residents; 30 percent use a washeteria; 20 percent use a year round watering point; 7 percent have individual wells, and 3 percent have no system at all. One can imagine the residents of this city living without the convenience of running water or toilets that flush.

In conclusion, I will continue to work to provide safe drinking water to rural Alaska and along with my colleague, Senator STEVENS, we want to see the elimination of the honey bucket in rural Alaska. That is a goal. And as the country moves toward the 21st century, Alaska's rural residents should not have to live in these conditions, again often compared to Third World countries.

I wish to especially acknowledge Carol Spils of my staff who has been working with the Environment and Public Works Committee for a long time on this legislation.

I would ask that the amendment be considered at this time by the committee. If there are additional details to be worked out, I would be happy to pursue them currently or if the floor managers are satisfied with them, why, I would ask they be included in the package. I would send up the amendment and modification, if it is appropriate.

Mr. CHAFEE. Mr. President, as I understand the modification, it is to set a time limit on the authorization, am I correct, to the year 2003, and thus be in conformity with the rest of the legislation?

Mr. MURKOWSKI. The floor manager is correct. I thank my friend from Rhode Island.

Mr. CHAFEE. That would be fine. If we could make that modification, and if the Senator would submit that, then that would be accepted. Then we would proceed to accept his amendment.

AMENDMENT NO. 3070

(Purpose: To authorize the Administrator of the Environmental Protection Agency to make grants to the State of Alaska to improve sanitation in rural and Native villages)

Mr. MURKOWSKI. Then, Mr. President, I would send the modification to the desk and ask for its consideration at this time.

The PRESIDING OFFICER (Mr. ASHCROFT). The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Alaska [Mr. MURKOWSKI] for himself, Mr. CHAFEE, Mr. KEMPTHORNE, Mr. BAUCUS, and Mr. REID, proposes an amendment numbered 3070:

Mr. MURKOWSKI. 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 195, after line 20, insert the following:

''(g) GRANT TO ALASKA TO IMPROVE SANITATION IN RURAL AND NATIVE VILLAGES.—

''(1) IN GENERAL.—The Administrator of the Environmental Protection Agency may make grants to the State of Alaska for the benefit of rural and Native villages in Alaska to pay the Federal share of the cost of—

''(A) the development and construction of water and wastewater systems to improve the health and sanitation conditions in the villages; and

''(B) training, technical assistance, and educational programs relating to the operation and management of sanitation services in rural and Native villages.

''(2) FEDERAL SHARE.—The Federal share of the cost of the activities described in paragraph (1) shall be 50 percent.

''(3) ADMINISTRATIVE EXPENSES.—The State of Alaska may use an amount not to exceed 4 percent of any grant made available under this subsection for administrative expenses necessary to carry out the activities described in paragraph (1).

''(4) CONSULTATION WITH THE STATE OF ALASKA.—The Administrator shall consult with the State of Alaska on a method of prioritizing the allocation of grants under paragraph (1) according to the needs of, and relative health and sanitation conditions in, each eligible village.

''(5) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary for each of the fiscal years 1996 through 2003 to carry out this subsection.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. CHAFEE. Mr. President, as I understand it, this sets the time limit of 2003?

Mr. MURKOWSKI. That is my understanding and my intent.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the amendment.

The amendment (No. 3070) was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. MURKOWSKI. Let me take this opportunity to thank my colleagues for their accommodation on this matter. It is very meaningful to Alaska. Rural Alaska will be extremely pleased to see this continued progress.

I also wish to again thank Carol Spils.

Mr. CHAFEE. 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. JOHNSTON. 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. JOHNSTON. Mr. President, I want to alert my colleagues to a provision of this bill which we are negotiating which I think could be very pernicious and go well beyond anything that has to do with safe drinking water, would expand potentially the authority of EPA to evaluate and issue cost-benefit ratios which, in turn, could affect Federal actions, across the broad spectrum of Federal action.

I am referring to section 28, beginning on page 179 of the bill. Under this provision, the Administrator of the EPA can select major Federal actions, and we know that a major Federal action can be anything from drilling in ANWR, building a highway, having a timber sale, granting a loan—most anything. The Administrator of EPA would determine what he thinks would have a significant impact upon the environment and then would do a benefit-cost ratio on that major Federal action.

It tells him how to consider the benefits, and under section 6 on page 185, he is told to ''estimate the monetary value, and such other values as the Administrator determines to be appropriate, of the benefits associated with reducing risk'', for example, of ''(C) preserving biological diversity,'' ''(D) maintaining aesthetically pleasing environment,'' and other things with respect to regulating the chemistry of the air, so that, under this provision, the Administrator of the EPA has the specific authority to come up with a rating and a benefit-cost ratio to deal with, for example, a timber sale regarding the spotted owl.

So that the Administrator of the EPA, who is now not in the loop on determining a lot of these things, before you know it, there would be a benefit-cost ratio that would say this timber sale or this drilling in ANWR or the building of this highway or the granting of this loan has a benefit-cost ratio of only 50 percent and does not pass anybody's muster in terms of benefit-cost ratio.

There is no requirement of peer review. There is no requirement of making a rulemaking where the interested parties would be brought in. There is just simply a broad mandate to the Administrator of EPA to go look around at any place in the Federal Government where there is a major Federal action that may affect pollution—''pollution'' being broadly defined—in which the Administrator of EPA can then take into consideration everything from aesthetics to biodiversity. Mr. President, this could be a very, very bad provision.

The intent of the provision, of course, is good. The intent of the provision is to rank various sources of pollution, to look at the relative risks of different sources of pollution. Everyone agrees with that. But the grant of authority under section 28 under this bill is so broad that many Federal Departments will wake up one day and find out something that they had been working on for a long time, let us say the building of a highway, suddenly becomes not feasible because EPA has determined that it had a benefit-cost ratio of only 50 percent and, therefore, should not be built.

I suppose the determination that EPA made could be the basis of declaring a regulation or major Federal action to be arbitrary and capricious. It could affect major Federal actions all across the board including, presumably, the Department of Defense, Department of the Interior, Department of Energy. You name it, the Administrator of EPA could make that determination that it does not pass benefit-cost ratio.

Again, as the author of the original bill on risk assessment in the last Congress, I very strongly support the idea of relative risk and risk assessment, but I believe in an attempt to deal with this issue. This bill imperfectly does it, and I hope before this bill is finished that we can strike these provisions.

S. 343, the regulatory reform bill, deals with this issue, I believe, in a better way, because with respect to benefit-cost ratios, S. 343 provides for a rulemaking and peer review, a rulemaking in which all interested parties would be involved, a rulemaking in which the agency itself, which is putting out the regulation, would have the responsibility of running the rulemaking.

Under this, EPA does not have to peer review, does not have to give notice to interested parties. They can simply select around throughout the Federal establishment any Federal action which they wish to deal with and declare it to be not passing the cost-benefit analysis, because it fails to preserve biodiversity or fails to ''maintain an aesthetically pleasing environment.''

That is what it says, Mr. President. It may not be the intent. It may be correctable. I hope it is. But I believe section 28 ought to be stricken.

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, I want to thank the distinguished Senator from Louisiana for his thoughts on this. What we are doing now is seeking out and we are going to discuss this with the principal proponent of section 28. It is possible that we can do what the Senator from Louisiana suggests.

The Senator from Louisiana has some proposals that, in effect, deal with regulatory reform in section 5, as I understand it. My question is, would he be prepared to drop those provisions?

As I understand, he has another amendment that deals with section 5. What I would like to do is, frankly, get all references to regulatory reform out of this bill. We could discuss it now, or we could meet and have a quorum call. I know the Senator from Texas has comments on another subject. But I would like to discuss with the Senator from Louisiana what I previously suggested, namely dropping the section 5 proposals he has suggested.

Mr. JOHNSTON. Mr. President, the section 5 is a slightly different subject matter. I would certainly be very interested in talking to the Senator about that. I do believe section 28 ought to be dropped in its entirety. The problem is, if we do not drop it in its entirety, that will engender amendments to put in the reg reform S. 343 provisions, and that is going to engender a huge debate. It seems to me that that debate ought to be put off until another day and not be engrafted upon the Safe Drinking Water Act.

The risk assessment on section 5 does have to do with safe drinking water because it determines how you do risk assessment with respect to drinking water. Section 28 really does not deal with safe drinking water at all. That is why I think section 28 ought to be dealt with separately. We would be prepared to discuss section 5 at any time the Senator wishes to.

Mr. CHAFEE. Mr. President, what I suggest is that we have those discussions now. I know the Senator from Texas is ready to go. There is a gap here, and I do not know how long the Senator would like.

Mr. GRAMM addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Mr. President, whenever I can serve the good of the Senate by speaking on another subject so that the discussion can occur, I leap to the opportunity.

Mr. CHAFEE. I was going to suggest 20, 30 minutes.

Mr. GRAMM. I do not know that I will go that long, but I will suggest the absence of a quorum when I finish.

Mr. CHAFEE. That will be fine.

Mr. BAUCUS. Will the Senator yield for a unanimous-consent request?

Mr. GRAMM. Yes.

PRIVILEGE OF THE FLOOR

Mr. BAUCUS. Mr. President, I ask unanimous consent that Carl Mazza, a fellow with Senator MOYNIHAN's office, be permitted to have floor privileges during consideration of this bill.

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

THE BUDGET NEGOTIATIONS

Mr. GRAMM. Mr. President, as we all know—in fact, as the whole country knows—intensive negotiations on the budget are underway in this very building, and working Americans have a big stake in the outcome of those negotiations.

While we do not know the final makeup of the compromise that would emerge from these negotiations, what I have heard is already alarming. I want to talk about the things that we are reading about in the paper, the apparent movement in the negotiations. I think it is important that if someone feels very strongly about a subject—and I feel very strongly about this subject—that we not surprise them by waiting until the last minute, when negotiations are finished and a final product has been produced, to suddenly spring it on people that are not going to support it.

So what I would like to do this afternoon is to talk very briefly about the emerging budget deal and then talk about four simple principles that I intend to establish in terms of my own vote. Obviously, I speak only on behalf of myself but I believe that, based upon the 1994 elections, the vast majority of Americans agree with the principles I will outline today. In fact, I think there is no doubt about the fact that the vast majority of Americans agree with the principles that I will set forth, and which will guide my vote on any final budget agreement.

I think the general parameters of a negotiation are pretty clear in terms of what we hear from the White House, from Mr. Panetta, and what we are beginning to hear from our own leadership. If you go back to the last continuing resolution, there was a little line in that resolution that, for the first time, opened the door to the possibility that we would change the parameters, the assumptions in our budget.

Let me explain why that is so important. It sounds kind of trivial to many people, what we assume about the health of the economy, interest rates, unemployment rates, and the number of people who qualify for Government programs. But let me explain how important those assumptions are. If you take the assumptions that the independent and nonpartisan Congressional Budget Office has established, which guide our budget, and you compare them to the assumptions contained in President Clinton's budgets, his assumptions about lower unemployment, higher growth, lower interest rates, and less spending from existing programs ultimately allows him to spend $1 trillion more, over the next 10 years, than our budget allows us to spend.

Now, I have one constituent who can comprehend what $1 billion is—Ross Perot, but I do not have any constituents that I know of, who knows what $1 trillion is, so let me try to define it. The trillion dollars that President Clinton wants to spend over the next 10 years would be equivalent to giving him the ability to write $15,000 worth of checks on the checking account of every American family, over that 10-year period. That is how much $1 trillion is.

I think it is clear that one path the negotiations could take, a path that I am very concerned about, would be to change our assumptions. This would be like a family assuming—when they sit down around the kitchen table at the end of the month, when they get out a pencil and a piece of paper and try to figure out how they are going to pay the rent or mortgage and how they are going to buy a new refrigerator before the old one goes, or how they are going to try to send the first child in the history of their family to college, when they are making tough, real-world decisions, when that we are not just making ends meet, but struggling for the American dream—assuming that there will be more money to spend than will actually be available.

I want to be very sure, Mr. President, that we do not make, in writing our new budget, an assumption that would be equivalent to a family saying, well, ''What if we won the lottery?'' or, ''What if we got a big promotion next year?'' or, ''What if some distant relative we do not know left us some money?'' We know American families do not do budgets that way because they have to live with the consequences of these decisions.

I am very concerned that we are on a path toward changing the underlying assumptions in the budget in such a way as to let President Clinton spend an additional $100 to $150 billion more each year over the next 7 years than we have set out in our budget. I am very concerned that, if we do this, we are giving up the first real opportunity we have had in 25 years to balance the Federal budget.

I want to let my colleagues know—and I know every person is trying to come up with the best solution to the impasse we have—but I want my colleagues to know that under no circumstances am I going to support any budget that allows President Clinton to spend money we do not have on programs we cannot afford.

If there was one promise that we made clear last year in the elections, it was that if the American people gave us a Republican majority in both Houses of Congress, we were going to balance the budget. I will have no part in backing away from that commitment.

The first principle I want to set out is a very simple one: I will not support a budget that spends one dime more than the dollar figures we set out in our balanced budget. We have written a budget and it was consistent with putting the Federal deficit in balance over

a 7-year period. Families and businesses have to do it every year. It is not cruel and unusual punishment to make the Government do it over a 7-year period. But we have written a budget that establishes the maximum amount we can spend each year for the next 7 years and still balance the budget. That amount, by the way, is $12 trillion. This is a 27-percent increase over what we spent in the last 7 years.

It seems to me that this is enough, especially when you stop and think about the fact that last Sunday, Americans sat down with the Sunday newspaper and with their scissors and cut 120 million coupons out of their Sunday newspapers, and then carried those coupons to the grocery store and went to all the hassles to turn in the coupons as they were paying their grocery bill just to save a few nickels, dimes, and quarters.

Have we lost our ability to be outraged about the fact that the Government does not make those sorts of decisions when we are now taking $1 out of every $4 earned by every family of four in America? In 1950 we were taking only $1 out of every $50.

I think, if we back away from our commitment to balance the Federal budget, we are betraying everything we promised in 1994, and I refuse to be a part of that.

The first principle is that I will not support a budget that spends one dime more than the dollar figures we set out in our budget. Especially since this is the maximum amount we can spend while still balancing the Federal budget.

The second principle is that I am not going to vote for a budget which provides tax cuts that are smaller than the tax cuts set out in the Balanced Budget Act. I want to remind my colleagues that we are talking about letting working families keep an amount that equals roughly 2 percent of the total amount of Federal spending.

We promised in the election a $500 tax credit per child. That means beginning in January every family in America with two children would get to keep $1,000 more of what they earn to invest in their own children, their own family, their own future.

We have a fairly tight lid on it. The money is only going to working moderate, middle, and upper middle-income families. I know many of our Democratic colleagues are outraged that, if you do not pay taxes, you do not get a tax cut. I am not outraged about this. I think it is time to start operating Government in a way that tries to help those people who pull the wagon instead of solely being focused on the people who are riding in the wagon and, quite frankly, are being kept in the wagon by programs that deny them the ability to get out and become part of the American experience.

So I am not going to negotiate away a very modest tax cut which we committed to, which we set out in terms of absolute dollars at $245 billion over a 7-year period, roughly 2 percent of the level of spending of the Government, 70 percent of which goes to families, that begins to allow people to save more of what they earn, to invest more in their own children, and that has some modest incentives for economic growth.

Now, what is negotiable? First of all, I think we should be ready to sit down with the President anywhere, at any time, and under any circumstance, to negotiate how we spend the $12 trillion that is consistent with balancing the Federal budget. I think we ought to be totally willing to sit down with President Clinton and negotiate on each of those 7 years, how that $12 trillion is spent while still balancing the Federal budget.

I want to draw a clear line of distinction between negotiating about how to spend the amount of money that is consistent with balancing the budget and negotiating about how we might change the budget itself to allow more spending that we can not afford and that clearly would deny us the ability, for the first time in a quarter of a century, to balance the Federal budget.

I also believe we should be willing to sit down and hear the President out as to what the makeup of the tax cut should be. I do not believe we should compromise further on the size of the tax cut. I offered the original amendment in the Senate which would have cut Government spending further than our budget in order to adopt the Contract With America tax cut as it was adopted in the House. That amendment was rejected. We have already compromised in coming down from the original Contract With America.

As my dear friend, DICK ARMEY, said about compromising on the tax cut, he ''already gave at the Senate.'' and I agree with this sentiment.

It is clear that there is a movement in the negotiations toward going back and assuming that things will be better in the future than we believed they would be 3 weeks ago, because in some sense many Members of Congress and the White House believe if they could just assume away part of the deficit problem, that they could jointly achieve their objectives, that we could claim we have balanced the budget, that the President could spend more money, and that perhaps happiness might be found on both ends of Pennsylvania Avenue.

Mr. President, I am not going to support that effort. I think that would be a tragic mistake. How can we conclude that the economy is going to be brighter in the future, if at the same time we prevent economic growth by giving smaller tax cuts, by having the Government spend more money, and by having larger deficits?

We would be assuming a rosy scenario and doing things that deny the ability of that scenario to ever come true. I am not going to support that effort.

Let me set down this fourth principle. Any changes that we make in what are called economic assumptions or technical assumptions—what we think interest rates will be 6 years from now, how fast we think money is going to be spent out of a program—that every penny resulting from those changes and assumptions ought to go to deficit reduction. By applying it to deficit reduction we can guarantee that it will be there if, in fact, things do not turn out to be as rosy as we would like them to be.

We would be doing what prudent families do. That is, budget on the assumption that you are not going to win the lottery, budget on the assumption that you are not going to get the big promotion. And if you do get the promotion, if Aunt Sally does give you money, then you are in a very sound position to decide what to do with it. I believe if we conclude, as we say in the language art that is contained in the continuing resolution, if the Congressional Budget Office, in consultation with the White House and outside groups, concludes that there may be a brighter future than we thought 3 weeks ago when we debated this issue, then every dollar of savings ought to go to balance the budget in this century.

Only in Washington do we have a debate about whether to balance the budget in 7 years or 10 years or even whether to do it at all. I have never, ever, in any of the States that I have traveled in the last few years heard, nor, has anybody come up to me and said ''Senator GRAMM, I think balancing the budget is a great idea. Why not do it later than you plan?'' I have never had anybody say that to me. But almost every day—and as many of my colleagues know, I am meeting a lot of people all over the country—almost every day somebody comes up and says, ''Why are you waiting 7 years? Why don't we do it sooner? Why don't we do it now?''

So, I think it is prudent policy that, if we conclude that the economy is going to have a brighter future—basically because we conclude it is going to have a brighter future based on wishful thinking—then let us apply every dollar of savings that comes from these assumptions to deficit reduction. And if, in fact, it the economy does turn out to have a brighter future, the maybe we will balance the budget within this century. But if it does not, if the original assumptions, the original conservative assumptions, were right, then we will balance the budget in 7 years as we promised.

I hear, every day, our colleagues talking about expanding the ability of the President to spend. A member of the leadership recently, while on television, suggested that maybe we could bring the tax cut down from $240 to $195 billion. I disagree. I think this is the time to stand on principle. We had an election. We have a mandate. It is not as if the American people were deceived. They knew what we promised to do. We wrote a contract. I know

many Members of the Senate say they did not sign the contract, but America signed the contract when they elected us and gave us a majority in both Houses of Congress.

I think these four principles I have outlined embody a reasonable and a flexible approach to living up to what we promised we would do and yet being willing to work with the President in saying: These are our priorities as to how we spend the $12 trillion that can be spent over the next 7 years while still balancing the Federal budget. What are yours? Government must learn to live within the constraint that, quite frankly, families face every month when they sit down around the kitchen table and get out that pencil and piece of paper. Families do not have the luxury of saying, ''Let us assume that something great is going to happen, let us spend additional money.'' They have to negotiate how they are going to spend the income they have available. We should be willing to negotiate with President Clinton on that basis. We should hear the President out in terms of his priorities, but we have a priority that was given as a mandate by the voters in 1994. That mandate and that priority is balance the Federal budget under reasonable and realistic assumptions.

Anybody can balance the budget if you let them make up the assumptions. Any family can live within its budget if they can make up their income. That is not the trick. The real challenge, however, that is faced every night by millions of families sitting around their kitchen tables—which, quite frankly, we do not face here in Washington, and have not faced for 25 years—is how do you do it based on the amount of money you are realistically going to be able to spend? Every day in America, families are making these tough decisions, and they are having to say no to the things they want. They are having to say no because we never say no. They are having to say no to their children because we will not say no to spending more and more money of their money.

I think the time has come for us to say no. I want to say no so families and businesses can say yes again. I want less Government, and more freedom. I want less Government, stronger families, more opportunity, and more freedom. I think the way we get there is to stand up for some very simple principles. We are committed to balancing the budget under realistic assumptions. We have set out what we can spend and still achieve our objective. We will spend no more.

We promised the working people of this country a very small, very modest, very targeted amount of tax relief. It in no way gets working Americans back to where they were 20 years ago, but it is a step in the right direction. It is something we promised and I am not going to back off from it. We can negotiate over how to spend the money, but not how much to spend. And, finally, if in fact we conclude that the assumptions of the budget should be updated, that we should assume a more optimistic future—and I think we can make one by balancing the budget—but if we makes these assumptions, then every penny of savings that comes from those new rosy assumptions should go to deficit reduction. None of it should be spent.

These are the principles I intend to fight for. They are principles I think embody what I fought for in the 1994 election when we elected a Republican majority. They were embodied in the Contract With America. And I think, quite frankly, if we want people to believe politicians mean anything when they say it, then there is one way to achieve this and that is to actually do what you said you would do. I believe that if we stick to these principles we would finally be living up to the commitments that we made. I, for one, intend to do it.

I wanted to go on record today as to what my position is, because I do not want anyone to feel that, while they were away negotiating with President Clinton, somehow it was not clear where I stood. And when this final deal is reached, I do not want anyone to be surprised, if it violates one of these very, simple and, I think, eminently reasonable, principles, if I do not vote for the deal—because I cannot vote for a budget that does not live up to the deal we made first with the American people in 1994.

I yield the floor.

The PRESIDING OFFICER (Mr. SANTORUM). The Senator from Wyoming.

Mr. THOMAS. Mr. President, I ask unanimous consent to proceed as in morning business.

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

THE BALANCED BUDGET

Mr. THOMAS. First, let me congratulate the Senator from Texas on his very strong endorsement of the balanced budget amendment, the thing that has really been, what will be, the capstone of what we have done all year here, that will really make fundamental changes in the direction the Government takes. I admire his strength standing for it.

Mr. President, I send a bill to the desk and ask it be referred appropriately.

The PRESIDING OFFICER. The bill will be received and referred to the appropriate committee.

Mr. THOMAS. I thank the Chair.

(The remarks of Mr. THOMAS pertaining to the introduction of S. 1434 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

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

The PRESIDING OFFICER (Mr. SANTORUM). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

SAFE DRINKING WATER ACT AMENDMENTS

The Senate continued with the consideration of the bill.

Mr. KEMPTHORNE. Mr. President, in returning to the Safe Drinking Water Act Amendments of 1995, I would like to address a few points.

There has been quite a bit of discussion about the idea of these unfunded Federal mandates that we have had for years. And in fact the Congressional Budget Office pointed out that probably one of the most burdensome, onerous Federal regulations that has been imposed upon local and State government has been the Safe Drinking Water Act Amendments of 1986. The unfunded mandates format for 1995 that was passed earlier this year and signed into law this year by the President's signature does not go into effect until January 1, 1996 and, therefore, this legislation before us today, Senate bill 1316, does not come in under the requirements of the Unfunded Mandate Reform Act of 1995.

As the sponsor of that act which was signed into law, I was determined and absolutely dedicated that we are going to stop unfunded Federal mandates around here and, therefore, as this bill has been developed over 9 months I continually stayed in touch with the Congressional Budget Office. And in fact, I then submitted Senate bill 1316 to the Congressional Budget Office and asked them to please go through this legislation as though the unfunded mandates format were currently law, used all the same criteria, and the tough examination of this legislation. They have done so.

Mr. President, I ask unanimous consent that the letter from the Congressional Budget Office be printed in the RECORD.

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

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, November 7, 1995.

Hon. JOHN H. CHAFEE,
Chairman, Committee on Environment and Public Works, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 1316, the Safe Drinking Water Act Amendments of 1995.

Enacting S. 1316 would affect both direct spending and receipts; therefore, pay-as-you-go procedures would apply.

If you wish further details on this estimate, we will be pleased to provide them.

Sincerely,

JAMES L. BLUM
(For June E. O'Neill, Director).

Enclosure.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

1. Bill number: S. 1316.

2. Bill title: Safe Drinking Water Act Amendments of 1995.

3. Bill status: As ordered reported by the Senate Committee on Environment and Public Works on October 24, 1995.

4. Bill purpose: The bill would amend the Safe Drinking Water Act (SDWA) to authorize the Environmental Protection Agency (EPA) to make grants to states for capitalizing state revolving loan funds (SRFs). These SRFs would finance the construction of facilities for the treatment of drinking water. The bill would authorize appropriations of $1 billion annually over the 1996–2003 period for these capitalization grants. In addition, major provisions of the bill would:

Amend the procedures that EPA uses to identify contaminants for regulation under the SDWA;

Allow states to establish an alternative monitoring program for contaminants in drinking water;

Allow operators of small drinking water systems to obtain variances from drinking water standards under certain conditions;

Direct EPA to define treatment technologies that are feasible for small drinking water systems when the agency issues new contaminant regulations;

Require states to ensure that public water systems have the technical expertise and financial resources to implement the SDWA;

Establish a standard for the amount of radon in drinking water;

Authorize appropriations of $100 million annually for state public water system supervision programs (PWSS), $40 million annually for protecting underground drinking water sources, $35 million annually for protecting drinking water wellhead areas, and $35 million annually for assisting small drinking water systems; and

Authorize a loan for capital improvements to the Washington Aqueduct, which is operated by the U.S. Corps of Engineers to provide drinking water to the District of Columbia and parts of Northern Virginia.

5. Estimated cost to the Federal Government: Assuming appropriation of the entire amounts authorized for discretionary programs, enacting S. 1316 would lead to fiscal year 1996 funding for safe drinking water programs about $1.2 billion above the 1995 appropriation. CBO estimates that the bill would authorize appropriations totaling nearly $7 billion over the 1996–2000 period.

The authorization for most of EPA's safe drinking water activities expired in 1991, but the program has been continued through annual appropriations. In 1995 about $166 million was appropriated to EPA for safe drinking work and grants. In addition to this amount, $700 million was appropriated in 1995 and $599 million was appropriated in 1994 for EPA capitalizing grants to safe drinking water state revolving loan funds (SRFs). Spending of these SRF funds was made contingent upon enactment of legislation authorizing safe drinking water SRFs. Public Law 104–19 rescinded all but $225 million of the SRF appropriations.

Enacting S. 1316 would have a small effect on revenues from civil and criminal penalties and on resulting direct spending. Finally, enacting the bill could increase direct spending for the payments of judgments against the federal government resulting from claims made by states under SDWA; however, CBO cannot predict the number or amount of any such judgments that would result from enacting the bill. The estimated budgetary effects of S. 1316 are summarized in the following table.

[By fiscal years, in millions dollars]

	1995	1996	1997	1998	1999	2000
SPENDING SUBJECT TO APPROPRIATIONS						
Spending under current law:						
Budget authority	166	0	0	0	0	0
Estimated outlays	161	66	17	0	0	0
Proposed changes:						
Estimated authorization level	0	1,371	1,386	1,388	1,389	1,391
Estimated outlays	0	257	649	1,045	1,262	1,360
Spending under S. 1316:						
Estimated authorization level	166	1,371	1,386	1,388	1,389	1,391
Estimated outlays	161	323	666	1,045	1,262	1,360
ADDITIONAL REVENUES AND DIRECT SPENDING						
Revenues:						
Estimated revenues		(1)	(1)	(1)	(1)	(1)
Direct spending:[2]						
Estimated budget authority			(1)	(1)	(1)	(1)
Estimated outlays			(1)	(1)	(1)	(1)

[1] Less than $500,000.

[2] The bill also could increase direct spending for judgments against the government, but CBO cannot estimate the amount of any judgment payments that might occur from enacting S. 1316.

The costs of this bill fall within budget function 300.

6. Basis of Estimate: Spending Subject to Appropriations.—For purposes of this estimate, CBO assumes that the bill will be enacted before 1996 appropriations for EPA are provided and that all funds authorized by S. 1316 will be appropriated for each year. Over the 1996–2003 period, the bill would authorize appropriations totalling $10.6 billion, including $8 billion for grants to safe drinking water state revolving loan funds.

In addition to the bill's specified authorization amounts, CBO has estimated that $60 million to $70 million a year would be necessary to pay for activities authorized by the bill without specific dollar authorizations. Estimated costs for these activities are based on information provided by EPA. Estimated outlays are based on historical spending patterns of ongoing EPA drinking water programs and its grant program for waste water treatment state revolving loan funds.

CBO estimates that enacting the bill would require about $55 million annually (at 1996 price levels) to pay for EPA's general oversight and administrative costs for the safe drinking water program. This amount would constitute an increase of about $15 million above EPA's current program costs, principally for administration of the new SRF program. We estimate that no funds would be required for grants to states for the source-water protection programs that would be established under section 17 of the bill because states are unlikely to implement the optional petition programs described in the bill. CBO also estimates a cost of at least $5 million annually over the 1996–2000 period for EPA to prepare the reports on environmental priorities, costs, and benefits that would be required by section 28 of the bill.

CBO believes that the proposed authority for modernizing the Washington Aqueduct should be treated as authority for providing a federal loan to the three localities that receive water from the aqueduct. In effect, the localities are borrowing money from the Treasury to pay for modernizing the aqueduct. Such a loan would be subject to credit reform provisions of the Budget Enforcement Act of 1990. We estimate that this authorization would have no net cost to the federal government because the bill would allow the Secretary of the Treasury to impose loan terms and conditions on the localities involved sufficient to offset any subsidy cost of the loan.

The Army Corps of Engineers estimates that the aqueduct modernization project would cost about $275 million in 1995 dollars and would take seven years to complete. Credit reform requires that the subsidy cost of any loan—estimated as a net present value—be recorded as an outlay in the year that the loan is disbursed. But since the bill would require that the three localities pay interest and any additional amounts necessary to offset the risk of default, the subsidy cost of this loan would be zero. Hence, we estimate that the proposed loan would have no effect on outlays.

Revenues and Direct Spending.—Enactment of this bill would increase governmental receipts from civil and criminal penalties, as well as direct spending from the Crime Victims Fund, but CBO expects that the amounts involved would be insignificant. Any additional amounts deposited into the Crime Victims Fund would be spent in the following year.

In addition, section 22 of the bill would explicitly waive any federal immunity from administrative orders or civil or administrative fines or penalties assessed under SDWA, and would clarify that federal facilities are subject to reasonable service charges assessed in connection with a federal or state program. This provision of SDWA may encourage states to seek to impose fines and penalties on the federal government under SDWA. If federal agencies contest these fines and penalties, it is possible that payments would have to be made from the government's Claims and Judgments Fund, if not otherwise provided from appropriated funds. The Claims and Judgments Fund is a permanent, open-ended appropriation, and any amounts paid from it would be considered direct spending. CBO cannot predict the number of the dollar amount of judgments against the government that could result from enactment of this bill. Further, we cannot determine whether those judgments would be paid from the Claims and Judgments Fund or from appropriated funds.

7. Pay-as-you-go considerations: Section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 sets up pay-as-you-go procedures for legislation affecting direct spending or receipts through 1998. Enacting S. 1316 would increase governmental receipts from civil and criminal penalties, and the spending of such penalties; hence, pay-as-you-go provisions would apply. The following table summarizes CBO's estimate of the bill's pay-as-you-go effects.

[By fiscal year, in millions of dollars]

	1996	1997	1998
Change in outlays	0	0	0
Change in receipts	0	0	0

8. Estimated cost to State and local governments: S. 1316 would change the process for setting standards for drinking water contaminants, alter requirements for monitoring and treatment, and create state revolving loan funds to provide low-cost financing for public water systems.

The primary impact of the bill on state and local governments would be to reduce the likely costs of complying with future drinking water regulations. These future regulations would impose significant costs, primarily on local public water systems. The number of severity of these regulations is likely to be less under S. 1316. However, because these regulations are not yet in place, we cannot estimate the magnitude of any savings at this time.

For example, the bill would change the level at which future standards would be set for drinking water contaminants. By allowing EPA to consider the cost of compliance and the extent of the reduction in risks to health when establishing new standards, the bill would allow less stringent standards to be set in some circumstances and would therefore lower the cost of compliance for local water systems. Again, because these regulations are not yet in place, we cannot estimate the magnitude of any savings, although we expect that they would be significant.

The bill also would create some new responsibilities (mostly for states), but CBO expects that the cost of these new responsibilities would likely be far less than the potential savings realized from changing the current standard-setting process and altering current monitoring and treatment requirements. Furthermore, the bill extends the authorization of certain existing appropriations and authorizes the appropriation of additional federal funds to help state and local governments meet compliance costs. In total, the bill would authorize over $9.9 billion in funding for state and local governments over fiscal years 1996 to 2003 and would make available for spending about $225 million that was previously appropriated in fiscal years 1994 and 1995. Assuming the appropriation of these funds, CBO estimates that the bill would likely result in significant net savings to state and local governments.

CHANGES LIKELY TO REDUCE COMPLIANCE COSTS

Standard-setting

The bill would change the procedures for determining permissible levels of contaminants in drinking water in ways that would likely lower compliance costs for public water systems. First, it would rescind the requirement that the EPA Administrator issue rules for 25 drinking water contaminants every three years. No specific number of contaminants would have to be regulated. Although it is possible that with this change EPA would regulate more contaminants than current law dictates, CBO expects that the agency would regulate fewer contaminants than currently required.

Second, the bill would allow EPA to set the maximum contaminant level goal (MCLC) for contaminants known or likely to be carcinogens at a level other than zero in some circumstances. MCLGs are concentration levels below which there is thought to be no adverse effect on human health. Under current law, the maximum contaminant level (MCL) is an enforceable standard that is set as close to the MCLG as EPA determines is feasible. Current law requires MCLGs for known or likely carcinogens to be set at zero.

Third, the bill would give EPA the authority to set MCLs at a level other than the feasible level if using the feasible level would increase the health risks from other contaminants. If EPA uses this authority, it must set the MCL at a level that minimizes the overall health risk. Current law does not allow EPA to consider the effect of new regulations on the concentration of contaminants that are already regulated.

Fourth, the bill would require that EPA conduct a cost-benefit analysis for national primary drinking water regulations before they are proposed. The bill also would require EPA, when proposing a maximum contaminant level, to publish a determination as to whether the benefits of the proposed MCL justify the costs of complying with it. EPA would be given the discretionary authority to establish less stringent standards when it determines that the benefits of an MCL set at the feasible level would not justify the cost of compliance or when it determines that the contaminant occurs almost exclusively in small systems. If EPA uses this discretionary authority, it would have to set the MCL at a level that maximizes health risk reduction at a cost justified by the benefits. While current law requires EPA to perform cost/benefit analyses of new regulations, it does not give the agency the discretion to use those analyses as justification for changing the standards contained in new regulations. These last three changes in current law would give EPA greater discretion to set less stringent standards in future regulations. Any use of that discretion would lower the cost of compliance for public water systems.

Finally, the bill would establish an MCL for radon and would set specific requirements for regulations governing arsenic and sulfates in drinking water. The impact of these provisions on state and local government budgets is difficult to gauge, since EPA has not yet written final regulations for these contaminants. The bill would require the EPA Administrator to issue an MCL for radon of 3,000 picocuries per liter of water (pCi/Lwater). The impact of this change is difficult to assess because the MCL for radon under current law has not yet been determined. EPA has issued a draft MCL of 300 pCi/Lwater, and agency officials estimate that public drinking water systems serving 17 million people would be required to treat water for radon at that level. Under the higher MCL in the bill, systems serving fewer than 1 million people would have to treat for radon. Without a clear indication of the MCLs EPA would establish for other substances under current law, CBO has no sound basis for estimating the possible savings that would result from these provisions.

Monitoring

Section 19 would change monitoring requirements for local water systems in ways that probably would lower compliance costs. First, it would allow the EPA Administrator to waive monitoring requirements for states under certain conditions. Second, it would allow states with primary enforcement responsibility to establish alternative monitoring requirements for some national drinking water regulations. Alternative requirements could apply to all or just some public water systems in the state. Third, this section would give states with primary enforcement responsibility separate authority to establish alternate monitoring requirements specifically for small systems. Fourth, under ''representative monitoring plans'' developed by the states, small and medium water systems would probably monitor for unregulated contaminants less frequently than they would under current law. Finally, this section would direct the EPA Administration to pay the reasonable costs of testing and analysis that small systems incur by carrying out the representative monitoring plans.

Compliance period, exemptions, and variances

Section 11 would change the date that primary drinking water regulations become effective from eighteen months to three years after the date of promulgation, unless the EPA Administrator determines that an earlier date is practicable. This change would give water systems more time to install new equipment or take other steps necessary to come into compliance with the new regulation.

Section 13 would ease the conditions under which a state with primary enforcement responsibility may grant exemptions from primary drinking water regulations. Exemptions are currently given to water systems that, because of ''compelling factors,'' cannot comply with national drinking water regulations. These exemptions must be accompanied by a schedule that indicates when the system will come into compliance with the regulation. This section would specifically provide that a system serving a disadvantaged community may be eligible for an exemption.

Section 14 of the bill would set out conditions under which small systems could be granted variances from complying with primary drinking water regulations. Variances are currently given to water systems that, because of the quality of their raw water sources, cannot comply with regulations, even after applying the best technology or treatment technique. This section would broaden the qualifying criteria for small water systems, increasing the likelihood that they would be granted variances.

NEW REQUIREMENTS THAT WOULD INCREASE COSTS

Conditions of primary

Several sections of the bill would increase the responsibilities of states only if they choose to accept primary enforcement responsibility for national drinking water regulations. Every state except Wyoming currently has primary enforcement authority. Specifically, primacy states would have to set up new procedures to review applications for variances submitted by small systems and ensure that systems remain eligible for any variances granted. They would also have to establish requirements for the training and certification of operators of public water systems. Beginning in fiscal year 1997, they would have to prepare an annual report for EPA on violations of national primary drinking water regulations committed by their public water systems. Primacy states would also have to consider and act upon consolidation proposals from public water systems.

These new requirements would entail some costs for primacy states. Based on information from state drinking water officials, CBO believes that if all funds authorized are subsequently appropriated, states would probably receive enough money to pay for these additional requirements.

Procedures for small systems

Some provisions of this bill would require all states, whether or not they have accepted primary enforcement responsibility, to institute new procedures that would benefit some water systems. These requirements could impose significant additional costs on the states themselves. For example, section 19 of the bill would require each state to develop a ''representative monitoring plan'' to assess the occurrence of unregulated contaminants in small water systems. Under these plans, only a representative sample of small water systems in each state would be required to monitor for unregulated contaminants. Current law requires all systems to do such monitoring. While these plans could reduce the cost of monitoring for most small systems, they would require extra effort by the states. Based on information from a number of state drinking water officials, CBO believes that if all funds authorized are later appropriated, the states would probably receive enough funding to pay for any additional costs.

Section 15 of the bill would require each state to take certain actions to ensure that public water systems in the state develop the technical, managerial, and financial capacity to comply with drinking water regulations. States would have to prepare a ''capacity development strategy'' for small water systems as well as a list of systems that have not complied with drinking water regulations. In some circumstances, states would be allowed to spend money from their annual SRF capitalization grant to pay for developing and implementing their strategy.

Recordkeeping and notification

The bill includes other provisions that might lead to additional recordkeeping and reporting responsibilities for states and for public water systems. Section 4 would allow the Administrator of the Environmental Protection Agency to require states and localities to submit monitoring data and other information necessary for developing studies, work plans, or national primary drinking water regulations. This section could increase reporting costs for state and local governments, but on balance the bill would

likely result in a significant decrease in overall monitoring requirements and costs.

Section 20 of the bill would substitute more specific legislative requirements for current regulations governing how water systems notify customers of violations of national primary drinking water regulations. For example, this section would add a new requirement that community water systems notify customers of violations by mail. These requirements might result in increased costs for local governments.

Definition of public water system

Section 24 would change the definition of ''public water system'' to include systems that provide water for residential use through ''other constructed conveyances.'' This change would make drinking water regulations applicable to some irrigation districts that currently supply water to residential customers by means other than pipes. Districts would not fall under the new definition if alternative water is being provided for residential uses or if the water provided for residential uses is being treated by the provider, a pass-through entity, or the user. Those districts that fall under the new definition could face increased costs for treatment or for providing an alternative water supply.

CBO is still gathering information on the number of districts that would be affected by this change; however, we believe that because most of the water supplied by these districts is for agricultural uses, the amount of water that they would need to treat would be a small fraction of the water they supply. Furthermore, the bill would allow districts to make residential users of their water responsible for treatment or for obtaining an alternative water supply.

AUTHORIZATIONS OF APPROPRIATIONS

The bill would authorize the appropriation of over $9.9 billion for state and local governments over fiscal years 1996 to 2203. The largest authorization would be $8.0 billion for the creation of state revolving loan funds (SRFs). In addition, the bill would make available for spending $225 million that was appropriated for the revolving funds in fiscal years 1994 and 1995. If the authorized funds are appropriated, these SRFs would be a significant new source of low-cost infrastructure financing for many public water supply systems. The bill would give states the flexibility to transfer capitalization grant funds between the new safe drinking water SRFs and the SRFs established by the Clean Water Act for financing wastewater treatment facilities.

The bill would also extend the authorization for grants to the states for public water system supervision (PWSS) programs through fiscal year 2003 at $100 million per year and in some situations would allow states to supplement their PWSS grant by reserving an equal amount from their annual SRF capitalization grant. The PWSS programs implement the Safe Drinking Water Act at the state level through enforcement, staff training, data management, sanitary surveys, and certification of testing laboratories. The fiscal year 1995 appropriation for PWSS grants totaled $70 million. Both EPA and the Association of State Drinking Water Administrators have found this level of funding to be inadequate to meet the requirements of current law.

The bill would also allow the District of Columbia, Arlington County, Virginia, and Falls Church, Virginia to enter into agreements to pay the Army Corps of Engineers to modernize the Washington Aqueduct. The Corps estimates that the modernization would cost about $275 million in 1995 dollars and would take around seven years to complete. The terms of the agreements are subject to negotiation, but it is likely that payment of principal and interest would begin within two or three years and would be spread out over thirty years. The three localities would raise the necessary funds by increasing the water rates paid by their customers. The localities' respective shares of the costs would be roughly as follows: District of Columbia (75 percent), Arlington County (15 percent), and Falls Church (10 percent).

9. Estimate comparison: None.

10. Previous CBO estimate: None.

11. Estimate prepared by: Federal Cost Estimate: Kim Cawley and Stephanie Weiner. State and Local Government Cost Estimate: Pepper Santalucia.

12. Estimate approved by: Paul N. Van de Water, Assistant Director for Budget Analysis.

Mr. KEMPTHORNE. Mr. President, I can state, based on that letter from the Congressional Budget Office, that there are no new unfunded Federal mandates, and, in fact, as they pointed out, we will significantly reduce the cost to the local and State governments based on the legislation, S. 1316.

Again, I think it is important to note that while that act does not go into effect until January 1, we are complying with it today. And that is as it should be.

Another point I would like to make is the fact that I think our State and local officials have made it very clear that one of their most important responsibilities to their constituents is to assure their constituents that their drinking water is safe and it is affordable. Therefore, on many, many occasions during the course of the crafting of this legislation, a coalition representing the State and local governments, the different entities that provide the waters to different customers were part of the discussions. I ask unanimous consent to have printed in the RECORD a series of letters, letters from the National Governors' Association, the National Association of Counties, the National Conference of State Legislators, National League of Cities, U.S. Conference of Mayors, and a variety of other organizations, pointing out their strong support for this legislation.

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

NATIONAL GOVERNORS' ASSOCIATION,
NATIONAL ASSOCIATION OF COUNTIES, NATIONAL CONFERENCE OF STATE LEGISLATURES, NATIONAL LEAGUE OF CITIES, U.S. CONFERENCE OF MAYORS,

November 9, 1995.

Hon. DIRK KEMPTHORNE,
U.S. Senate, Dirksen Senate Office Building, Washington, DC.

DEAR SENATOR KEMPTHORNE: As elected representatives of state and local government, we are writing to express our strong support for S. 1316, the Safe Drinking Water Act Amendments of 1995, as it was reported by the Committee on Environment and Public Works. We ask for your help in passing this legislation into law without extraneous or substantive amendments. As you know, EPA has indicated that the drinking water law is broken and that reform of the statute is a top priority. Collectively our organizations agree that reform of this program is of critical importance, and we have made such reform our highest collective priority for this year. In many respects, the current law is unfocused, arbitrary, and imposes unacceptable costs on our citizens without appreciable benefits. S. 1316 makes important improvements in the law and deserves your support.

As a bottom line, S. 1316 makes the drinking water program more effective in protecting public health. In her September 27 letter to Senator Baucus, EPA Administrator Browner outlined her views on what a new drinking water law should do. We believe S. 1316 satisfies those concerns. In particular, this bill:

Helps prevent contamination of drinking water supplies by creating the first framework for water suppliers to work in partnership with those whose activities affect water supplies.

Provides assistance to help build the financial, managerial, and technical capacity of drinking water systems.

Assures that drinking water standards address the highest risks by directing EPA to set priorities and to establish standards for contaminants that occur in drinking water.

Allows EPA to consider both costs and benefits in developing new drinking water regulations, as EPA has recommended.

Provides much needed funds to help communities improve drinking water facilities.

Finally, but not least important, the bill addresses the problems of many of our smaller communities by requiring EPA to identify appropriate health-protective technologies for small water systems.

The bill represents countless hours of negotiation and compromise among the various interests, including EPA. While no party gets all that they want from such a process, the final product is balanced and reasonable.

We are concerned about two amendments that may be offered on the floor. One would require all water systems to report on contaminants found in the water at levels that do not violate the federal standards. The bill as drafted and current law require reporting and public notification when a standard is breached. In addition, water systems will be required to report on monitoring for unregulated contaminants in order to provide EPA with data on occurrence. States already have authority to require additional reporting, and some do. We support those provisions. However, additional mandatory reporting would be burdensome and serve no good purpose, and we cannot support them.

A second amendment may be offered allowing EPA to avoid analysis and public comment requirements when EPA declares an urgent threat to public health. The bill as drafted, combined with provisions of existing law, allows EPA to react quickly to protect the public in the event of an urgent threat. The authorities for quick action include the emergency powers, urgent threat to public health, and public notification requirements of the current law and this bill. Faced with an urgent threat, the Administrator can—and must—act quickly to protect the public. Moreover, all Governors also have authority to take emergency action to protect public health. However, even the quickest action should not be blind with respect to good science, the costs and benefits of that action, or the effect of that action on other contaminants.

We have seen no evidence that the analysis required by S. 1316 would slow EPA's response to an urgent threat, while the chance of mistakes dramatically increases when action is taken in haste. The cost of such mistakes can be very high, and could include costs of over-reaction, under-reaction, addressing the wrong risk, or addressing a risk

in the wrong way. Those are the very mistakes that the analysis required by the bill is designed to avoid. The EPA should not take shortcuts even when quick action is needed, and the public and the regulated community should have the right to see EPA's analysis before standards are proposed.

We hope you understand how important this bill is to state and local governments and to the citizens we represent, and hope you will help move this bill to final passage.

Sincerely,

Governor FIFE SYMINGTON,
Chair, Committee on Natural Resources.
Governor GEORGE V. VOINOVICH,
Lead Governor on Federalism.
Governor E. BENJAMIN NELSON,
Vice Chair, Committee on Natural Resources.
DOUGLAS R. BOVIN,
President, National Association of Counties.

OFFICE OF THE MAYOR,
CITY OF CHICAGO,
November 2, 1995.

Hon. DIRK KEMPTHORNE,
Chairman, Senate Committee on Environment and Public Works, Subcommittee on Drinking Water, Fisheries, and Wildlife, Dirksen Senate Office Building, Washington, DC.

DEAR MR. CHAIRMAN: I am writing to express my support of your Safe Drinking Water Act reauthorization bill (S. 1316).

As you know, the City of Chicago like other local governments, is plagued by unfunded federal mandates, many of which stem from the Safe Drinking Water Act. Current law makes blanket assumptions about the threats and conditions facing municipalities and issues the same rules for every city regardless of its unique circumstances. As a result, Chicago has spent a significant amount of time and money to comply with mandates that do not reflect the concerns of its water system. These mandates are consuming resources that our budget will not allow us to spend unwisely, and our citizens should not be saddled with unnecessary increases in the price they pay for safe drinking water.

In an effort to conserve our scarce resources, I have been actively involved in the fight to reduce the burden of unfunded federal mandates on local governments. The standard setting process for safe drinking water is an issue that I strongly believe needs improvement. I am pleased to see that your bill addresses this issue by directing the EPA to set drinking water priorities and to set standards for contaminants that are present in our water. I also commend you for recognizing the need for a cost-benefit analysis in setting these drinking water standards.

Your bill will enable the City to use its resources more efficiently and will allow the Water Department to take more effective steps to guard against contamination that may pose a real risk to the citizens of Chicago. For these reasons, I thank you not only for your insight but also for your leadership on this important piece of legislation.

Sincerely,

RICHARD M. DALEY,
Mayor.

CALIFORNIA WATER SERVICE CO.,
San Jose, CA, October 20, 1995.

Hon. DIANNE FEINSTEIN,
U.S. Senate, Senate Hart Office Building, Washington, DC.

DEAR SENATOR FEINSTEIN: As you may know, on October 12, a bipartisan group of Senators introduced S. 1316, the Safe Drinking Water Act Amendments of 1995. I urge you to lend your support to this important bill by signing on as cosponsor.

S. 1316 adds needed flexibility to the Safe Drinking Water Act (the Act) while preserving the Act's strong public health protections. It improves the method for choosing and setting drinking water standards; encourages states to prevent the formation of—and consolidate—nonviable water systems (which are responsible for the vast majority of water quality violations); places greater emphasis on source water protection; and directs EPA to place a priority on research into cryptosporidium and at risk subpopulations.

These reforms are badly needed. Without them, Californians face considerable incremental increases in their water bills over the next few years without concomitant increase in public health protections. For example, it would cost an estimated $500 million for San Francisco to build a filtration plant to treat one of the most pristine water supplies in the world. California consumers would pay between $3 and $4 billion in up front costs and about $600 million annually to comply with the proposed radon regulation if adopted unchanged. Yet merely by opening the window, they will be exposed to higher levels of radon.

Nationwide, water utilities have spent billions of dollars a year to ensure the safety of their customers' supply. Large expenditures life these were made even before passage of the Act in 1974 and will continue to be made with or without changes to it. However, with the outlook for retail water costs in California increasing, additional treatment costs should not be imposed on our customers unless they are necessary to enhance public health protections.

The California Water Service Company is the State's largest investor-owned water utility serving 1.5 million people in 38 communities around California. On their behalf, I appreciate your interest in this issue.

Sincerely,

DONALD L. HOUCK,
President.

ST. LOUIS COUNTY WATER CO.,
St. Louis, MO, October 24, 1995.

Attention: Tracy Henke.
Hon. KIT BOND,
U.S. Senate,
Washington, DC.

DEAR SENATOR BOND: Senator Kempthorne recently introduced The Safe Drinking Water Act Amendments of 1995, (S. 1316), which already has received bipartisan support from many of your colleagues. Last week Gurnie Gunter of the Kansas City Water Department provided testimony before the Senate Committee on Environment and Public Works in support of this legislation. I agree with Gurnie, as do most of the water utility people I know.

This legislation represents significant improvement over current law, would ensure increased protection of public health, and clearly represents the consensus reached only after long hours of deliberations. S. 1316 would target high risk contaminants, require the use of better scientific analysis, and target funds to much needed research. Furthermore, the bill would repeal unnecessary monitoring requirements and other wasteful SDWA provisions which drain funds from real public health protection.

The bill has been endorsed by associations representing state and local elected officials all across the country, and contains many provisions which the EPA has been advocating in a SDWA reauthorization.

For these reasons, I encourage you to cosponsor this important reauthorization bill. I would also like to make my staff available to your staff should clarification be needed in the technical areas of the bill.

I appreciate your attention to this matter, and look forward to hearing from you.

Sincerely,

A. M. TINKEY,
President.

OCTOBER 24, 1995.

Hon. DIRK KEMPTHORNE,
Chairman, Subcommittee on Drinking Water, Fisheries, and Wildlife, Environment and Public Works Committee, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The undersigned agricultural and agribusiness organizations are pleased to comment on S. 1316, the Safe Drinking Water Act Amendments of 1995, and in particular Section 17, ''Source Water Quality Protection Partnerships.'' The petition program in Section 17, which Subcommittee Chairman Dirk Kempthorne took the lead in crafting, successfully builds on a similar provision authored in the last congress by Senators John Warner and Kent Conrad, and adopted by the Senate. We certainly appreciate your efforts to resolve agricultural concerns during development of the Section 17 language. If implemented as envisioned, this petition program contains the foundation for voluntary partnerships involving state and local governments and agriculture.

Importantly, the new petition program is *not* intended to create new bureaucracies, a mini-Clean Water Act, or a new layer of regulatory mandates imposed on farmers and other stakeholders. Section 17 avoids a heavy-handed, ''top down'' regulatory approach in which economic viability is ignored and farmers could become victims. Instead, States have the option of establishing a petition program. States may respond to petitions where appropriate by facilitating locally developed, voluntary partnerships through technical assistance and financial incentives available under existing water quality, farm bill and other programs, plus funds from the new drinking water SRF as provided for in S. 1316. The petition process is a common-sense, problem-solving approach which offers farmers and other stakeholders the opportunity to work with their local communities as partners. There are a growing number of success stories in which local communities and farmers are already working together in voluntary partnerships to resolve drinking water problems.

We look forward to working with members of the Committee and the Senate in ensuring that the petition process in S. 1316 maintains its voluntary and problem-solving objectives.

Sincerely,

Agricultural Retailers Association.
American Association of Nurserymen.
American Farm Bureau Federation.
American Feed Industry Association.
American Sheep Industry Association.
American Soybean Association.
Equipment Manufacturers Institute.
Farmland Industries, Inc.
National Association of Conservation Districts.
National Association of Wheat Growers.
National Association of State Departments of Agriculture.
National Cattlemen's Association.
National Cotton Council.
National Council of Farmer Cooperatives.

National Grange.
National Pork Producers Council.
National Potato Council.

AMERICAN FARM BUREAU FEDERATION,
Washington, DC, October 13, 1995.

Hon. DIRK KEMPTHORNE,
U.S. Senate,
Washington, DC.

DEAR SENATOR: The American Farm Bureau Federation would like to take this opportunity to thank you for your strong support of agriculture in developing the source water protection provisions in the Kempthorne/Chafee Safe Drinking Water Act reauthorization bill.

Farm Bureau supports the incorporation of a voluntary sources water provision in the Safe Drinking Water Act. Your petition program will establish these voluntary partnerships between state and local governments, helping agriculture create a positive approach for solve water quality problems. An important aspect of this program is that it does not create new regulations or bureaucracies. Rather it provides a means for a community or water supplier who is experiencing water quality trouble to solve the problem with the help of stakeholders using programs and resources that are currently available under existing laws. This is a very practical solution in addressing water quality needs.

We thank you and your staff again for your leadership and responsiveness in addressing this issue.

Sincerely,

RICHARD W. NEWPHER,
Executive Director,
Washington Office.

UNITED WATER DELAWARE,
Wilmington, DE, October 13, 1995.

Senator DIRK KEMPTHORNE,
Chairman, Senate Drinking Water, Fisheries, and Wildlife Subcommittee, Dirksen Building, Washington, DC.

HON. SENATOR KEMPTHORNE: As Manager of United Water Delaware, I am writing to support your proposed Safe Drinking Water Act Amendments of 1995. As purveyor of water to some 100,000 people in the Wilmington, DE area, the re-authorization of the Safe Drinking Water Act is very important to me and UWD's customers in Delaware and Pennsylvania.

I feel that this bill will renew the partnership between the water purveyors and the State; re-establish confidence in EPA; and help make safe, adequate water supplies available to all Americans.

Very truly yours,

ROBERT P. WALKER,
Manager.

OFFICE OF THE MAYOR,
Rutland, VT, October 23, 1995.

Hon. DIRK KEMPTHORNE,
U.S. Senate,
Washington, DC.

SENATOR KEMPTHORNE: Thank you once again for your most successful efforts to craft a bipartisan set of amendments to the Safe Drinking Water Act. Thank you also for giving me, the NLC and NACO an opportunity to offer testimony last week.

A great many people have worked for years to strengthen the protection of public health through the Safe Drinking Water Act. As someone who is on the front line of this fight. I want you to know how deeply your leadership and legislative craftsmanship are appreciated. Put bluntly, in the current political climate, it could not have been without you.

I am now confident that this Congress will enact amendments that will protect both the taxpayer's wallets and the public health. Please share my sentiments with Meg and everyone on your staff who contributed to this remarkable effort.

Sincerely,

JEFF WENNBERG,
Mayor of Rutland.

ALABAMA DEPARTMENT OF
ENVIRONMENTAL MANAGEMENT,
Montgomery, AL, October 25, 1995.

Re: Senate bill 1316.

Hon. RICHARD SHELBY,
U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR SENATOR SHELBY. As you are aware, hearings were held on Senate Bill 1316, reauthorization of the Safe Drinking Water Act, on October 19, 1995.

Staff of the Department have reviewed this bill and previously provided input through the National Governor's Association and the Association of State Drinking Water Administrators noting our satisfaction with the language as presented. Lack of flexibility properly administer the Safe Drinking Water Program has caused water systems in Alabama to spend excessively on monitoring without an associated increase in public health protection. The passage of reauthorization will greatly benefit the water systems of Alabama and not only provide a safer quality of drinking water but a better environment for our citizens. I urge you to co-sponsor this bill and provide support for its passage.

Sincerely,

JAMES W. WARR,
Acting Director.

TULSA METROPOLITAN
UTILITIES AUTHORITY,
Tulsa, OK, November 1, 1995.

Hon. JAMES M. INHOFE,
U.S. Senate,
Washington, DC.

DEAR SENATOR INHOFE: On behalf of the Tulsa Metropolitan Utility Authority, I am writing to thank you for your cosponsorship of S. 1316, the Safe Drinking Water Act Amendments of 1995. We feel that S. 1316 is a significant improvement over current law in that it increases the likelihood that contaminants of real concern to the public will be addressed. We feel S. 1316 will achieve this goal by doing the following:

Using solid science as a standard setting basis;

Authorizing adequate funding for health effects research;

Securing the publics right to know;

Establishing a reasonable compliance time frame;

Ensuring that drinking water standards address the highest priorities for risk reduction;

Setting up a framework and authorizing funds for source water protection partnerships.

By supporting this bill, we recognize you are focusing your attention as well as the state of Oklahoma's attention on public health protection. Water quality is important to us all; consequently, we feel that S. 1316 is a step in the right direction to achieving better drinking water. We ask that you continue your support of S. 1316 and the pursuit of other supporters for the improvement of drinking water. We truly believe S. 1316 will not only benefit the water quality of Tulsa and the State of Oklahoma, but it will also benefit the water quality of the entire country.

Thank you again for your support and continued pursuit of this matter.

Sincerely,

SANDRA ALEXANDER,
Chairman.

TULSA METROPOLITAN
UTILITY AUTHORITY,
November 1, 1995.

Hon. DON NICKLES,
U.S. Senate,
Washington, DC.

DEAR SENATOR NICKLES: On behalf of the Tulsa Metropolitan Utility Authority, I am writing to ask for your support of S. 1316, the Safe Drinking Water Act Amendments of 1995. By supporting this bill, you would be focusing your attention as well as the state of Oklahoma's attention on public health protection. We here at the TMUA support S. 1316 and believe it represents a significant improvement over current law by increasing the likelihood that contaminants of real concern to the public will be addressed. We believe it would do this by achieving the following:

Ensuring that drinking water standards address the highest priorities for risk reduction;

Utilizing solid science as a basis for standard setting;

Authorizing adequate funding for health effects research;

Securing the publics right-to-know;

Establishing a reasonable compliance timeframe;

Setting up a framework and authorizing funds for source water protection partnerships.

Water quality is of utmost importance to us, and we feel that the current bill up for approval by the Senate meets the current water quality needs in an adequate manner. We would greatly appreciate your support on S. 1316 and hope you will continue to pursue what is best for Oklahoma.

Thank you for your consideration on this matter.

Sincerely,

SANDRA ALEXANDER,
Chairman.

ASSOCIATION OF METROPOLITAN
WATER AGENCIES,
Washington, DC, November 15, 1995.

Hon. DIRK KEMPTHORNE,
U.S. Senate, Dirksen Senate Office Building, Washington, DC.

DEAR SENATOR KEMPTHORNE: On behalf of the Association of Metropolitan Water Agencies (AMWA), I would like to urge you to support S. 1316, the Safe Drinking Water Act Amendments of 1995. The bill, which makes essential reforms to the nation's drinking water law, was developed through a bipartisan effort and has the backing of the major drinking water supply organizations as well as State and local governments.

S. 1316 improves the current statute in several meaningful ways. The bill establishes a rational approach to selecting contaminants for future regulation, greatly improves the scientific bases for establishing maximum contaminant levels, and modifies the existing mechanism for setting standards by providing EPA with the discretion to apply a benefit-cost justification under certain circumstances. In addition, the bill allows EPA to balance risks when considering the development of standards and applies this risk balancing authority to regulation of disinfectants, disinfection by-products and microbial contaminants. The risk trade-off authority is particularly important given the public health and cost implications of controlling contaminants whose treatment, by its very nature, may result in unintended increased public health risks.

AMWA also urges you to support passage of S. 1316 without significant amendments. The bill contains many compromises that continues the Act's focus on public health protection but also addresses many problems with the statute from a variety of perspectives. Amendments that shift this balance could serve to undermine the bill's support.

We urge you to support S. 1316.

Thank you for your consideration of this very important matter. If you need any additional information or have any questions, please do not hesitate to give me a call.

Sincerely,

DIANE VANDE HEI,
Executive Director.

CITIZENS UTILITIES,
Sun City, AZ, November 6, 1995.

Hon. JOHN KYL,
Russell Senate Office Building,
Washington, DC.

DEAR SENATOR KYL: I am writing on behalf of Citizens Utilities Company (''Citizens'') regarding proposed legislation, Senator Kempthorne recently introduced the Safe Drinking Water Act Amendments of 1995 (S. 1316) which already has received bipartisan support from many of your colleagues. Citizens strongly supports this reauthorization bill.

In the state of Arizona, Citizens provides water and wastewater utility services to approximately 105,000 customers in Maricopa, Mohave, and Santa Cruz Counties. We are the largest contiguous investor-owned water/wastewater utility company in the State of Arizona. Among our service areas are the world-renowned, master-planned retirement communities of Sun City, Sun City West, and Del Webb's newest project, Sun City Grand.

This legislation represents significant improvement over current law, would ensure increased protection of public health, and clearly represents the consensus reached only after long hours of deliberations. S. 1316 would target high risk contaminants, require the use of better scientific analysis, and target funds to much needed research. Furthermore, the bill would repeal unnecessary monitoring requirements and other wasteful SDWA provisions which drain funds from real public health protection.

The bill has been endorsed by associations representing state and local elected officials all across the country, and it contains many provisions which the EPA has been advocating in an SDWA reauthorization.

Thank you for your consideration of the foregoing information. I look forward to hearing from you regarding this important piece of legislation.

Very truly yours,

FRED L. KRIESS, Jr.,
General Manager.

ILLINOIS-AMERICAN WATER CO.,
Belleville, IL, October 18, 1995.

Hon. CAROL MOSELEY-BRAUN,
U.S. Senate, Hart Senate Office Building,
Washington, DC.

DEAR SENATOR MOSELEY-BRAUN: I am writing to urge you to cosponsor S. 1316, the Safe Drinking Water Act Amendments of 1995. The bipartisan bill was introduced by Senator Kempthorne with 23 cosponsors including Senator Dole (Majority Leader) and Senator Daschle (Minority Leader).

As the guardian of safe drinking water in Pekin, Peoria, Alton, East St. Louis, Belleville, Granite City and Cairo, Illinois-American Water Company believes S. 1316 is a major step forward in the direction of better public health; safer drinking water; and more responsive government. The reforms contained in this bill represent a common sense solution that supports both environmental protection and regulatory reform.

S. 1316 strengthens the scientific basis for establishing drinking water standards; targets regulatory resources towards greater public health risks and away from trivial risks; establishes a stable, forward-looking framework for addressing longer term drinking water issues; funds new mandates while reducing existing mandates that don't work; establishes a source water protection program; provides authorization for a drinking water state revolving fund; and provides for an improved federal-state partnership.

S. 1316 is supported by national organizations representing governors, mayors, other state and local elected officials, state drinking water regulators, and public water suppliers—virtually all those responsible for assuring the safety of America's drinking water.

It is important that we focus our resources on the overall interest of the public and not simply react to political rhetoric.

Thank you for your time and consideration. If we can provide additional information for you please contact us.

Sincerely,

RAY LEE, *President.*

BRIDGEPORT HYDRAULIC CO.,
Bridgeport, CT., October 13, 1995.

Hon. CHRISTOPHER J. DODD,
U.S. Senate, Senate Russell Office Building,
Washington, DC.

DEAR SENATOR DODD: We understand that on October 12, 1995, Senators Kempthorne and Chafee introduced S. 1316, ''The Safe Drinking Water Act Amendments of 1995.'' This bill has bi-partisan support from the leadership of both parties in the Senate and has been endorsed by members of the Safe Drinking Water Act Coalition, which represents state and local governments and public water suppliers.

S. 1316 makes substantial improvements in the current law, particularly how contaminants will be selected for regulation and requiring a cost benefit analysis for risk assessment. We believe when enacted, S. 1316 will help provide American consumers with safe, high-quality water at a reasonable price.

Since this bill will provide reasonable, risk reducing water regulations, we urge you to become one of its co-sponsors. Thanks for your consideration.

Sincerely,

LARRY L. BINGAMAN,
Vice President,
Corporate Relations and Secretary.

IDAHO RURAL WATER ASSOCIATION,
Lewiston, ID, March 13, 1995.

Hon. DIRK KEMPTHORNE,
U.S. Senate,
Washington, DC.

DEAR SENATOR KEMPTHORNE: On behalf of over 187 rural and small communities in Idaho, we want to thank you for your commitment to pass a revised Safe Drinking Water Act (SDWA).

The federal Safe Drinking Water Act has proven to be one of the most expensive and most arbitrary federal mandates that has been placed on rural communities. All water systems small and large must follow the same ONE-SIZE-FITS-ALL federal requirements regardless of the history and/or previously tested quality of their water.

We urge you to pass the SDWA that corrects the over regulation of small and rural communities. No one is more concerned about ensuring public health protection than rural communities with water systems, but specific changes need to be made to make the law workable.

For a bill to benefit small and rural communities, the Safe Drinking Water Act should:

1. Provide small communities with increased technical assistance. This is what works in the field to help small systems with the mandates. Small systems have the most difficulty complying with the SDWA because of limited budgets and big system requirements. Through the thick and thin of the federal SDWA regulations, small and rural systems have relied on their state rural technical assistance program to help each other try to meet these ever increasing mandates. This program needs to be strengthened.

2. No more federal regulation requirements. The revised law should not include new requirements because EPA cannot even manage the existing requirements. Viability, or the way a system operates in order to meet standards, should not be subject to federal regulatory definition. Our state can manage its small systems. Rural consumers have to pay for all the good ideas that come out of Washington. Giving the federal bureaucracy authority over determining the criteria for management and operations of local municipal water systems will only increase burden on water operators and local elected officials.

3. Urgent-Monitoring relief. We estimate that 20 to 25 percent of Idaho's small communities did not utilize the 1993 Chafee Lautenberg monitoring relief and therefore will have to complete four samples of Phase II/V monitoring in 1995. Please extend this one-test relief provision.

4. The enclosed signatures were gathered during the Idaho Rural Water Association's annual meeting. The 54 names on the petition represent approximately 140,992 citizens of small rural communities in Idaho. They support the above mentioned three items. They also appreciate your effort to pass a revised SDWA that is fair and workable and provides them the opportunity to provide clean, safe, affordable drinking water to their citizens.

Sincerely,

KENNETH GORTSEMA, *President.*

Enclosure.

IDAHO RURAL WATER ASSOCIATION LETTER TO SENATOR KEMPTHORNE—SIGNERS

Roy Cook, Coeur o'Alene, vendor.

Robert Cuber, City of Jerome, (pop. 7,049), water superintendent.

Helen Smith, LOFD Lewiston, (pop. 6,000), board member.

Frank Groseclose, City of Juliaetta, (pop. 500), maintenance supervisor.

Jeanette Turner, Clarkia, (pop. 70), director/secretary.

Fred Turner, Clarkia, (pop. 70), maintenance.

Robert L. Luedke Jr., City of Gowesee, (pop. 800), city supervisor.

Jeanette Turner, Clarkia, (pop. 70), board member.

Fred Turner, Clarkia, (pop. 70), maintenance.

Jerry Lewis, Bonner County, (pop. 115), owner.

Roberto J. Lopez, Lapwai, (pop. 250), water maintenance.

Jim Richards, City of Pierce, (pop. 800), maintenance.

Andy Steut, City of Spiritlake, (pop. 1,500), maintenance.

Mark Kriner, Pocatello Idaho, (pop. 60,000), vice president Caribon Acres water.

Ted A. Swanson, Pocatello Idaho, (pop. 60,000), Swanson construction.

Nathan Marvin, City of Weiser, (pop. 4,800), public works superintendent.

Larry Kubick, Fernwood water district, (pop. 450), operator/maintenance/supervisor.

Steve Howerton, City of Kendrick, (pop. 350), maintenance/supervisor.

Kelly Frazier, City of Kooskia, (pop. 700), public works superintendent.

Alvena Gellinos, L.O. irrigation district, (pop. 3,800A.), Billing clerk.

——— ———, City of Lapivai, (pop. 1,000), city clerk.

Daeline Pfaff, Fort Hall (townsite), (pop. 150), board member.

Shelley Ponozzo, L.O.I.D. Lewiston, Id,, (pop. 6,000), accountant/office manager.

Irvin Hardy, Rupert Id., (pop. 5,200), water superintendent.
Bob Paffile, CDA, board member/vice president.
Robert Smith, New Meadows, (pop. 600), water superintendent.
Buzz Hardy, Rapid River water and sewer, (pop. 42), district president.
Paul Stokes, Solmon, Idaho, (pop. 3,000), water treatment.
Steve Kimberling, Orofino ID, (pop. 2,500), water maintenance.
Richard Whiting, City of Victor ID., (pop. 600), water superintendent.
Jim Condit, City of Spirit Lake, (pop. 1,500), water waste water.
Rhonda Wilcox, City of Harrison, (pop. 226), water maintenance.
Phil Tschida, City of Horseshoe Bend, (pop. 720), water maintenance superintendent.
Ed Miller, CSC water district Kellogg, (pop. 3,000), water operator.
Virgil W. Leedy, City of Weiser, (pop. 4,500), water superintendent.
Dan Waldo, Kingston water, (pop. 180), manager.
Todd Zimmermann, Avondale Irrigation District, (pop. 1,700), manager.
Joe Podrabsky, City of Lewiston, (pop. 5,500), water operator.
Ken Rawson, City of Lewiston, (pop. 5,500), water operator.
Mike Curtiss, City of Grangeville, (pop. 3,300), water superintendent.
John Shields, Kootenai county water district, (pop. 170), manager.
Dave Owsley, Dworshak N.F.H., engineer.
Ray Crawford, Winchester, (pop. 380), maintenance.
Rodney Cook, Juliaetta, (pop. 480), maintenance.
Jack Fuest, Culdesac, (pop. 420), maintenance.
Brian Ellison, Troy, (pop. 800), maintenance.
David C. Shears Sr., Cottonwood, (pop. 850), maintenance.
Dave Fuzzell, Cottonwood, (pop. 850), maintenance.
Robert Jones, Lewiston, (pop. 28,000), maintenance.
Renee McMillen, Lewiston, (pop. 28,000), water operator.
Bob Faling, Lewiston, (pop. 28,000), water maintenance.
Lonnie Woodbridge, Arco, (pop. 1,000), maintenance.
Dale W. Anderson, Harwood, (pop. 80), maintenance.
Eugene J. Pfoff, Fort Hall (townsite), maintenance).

Mr. KEMPTHORNE. I remember, Mr. President, on one occasion at a particular meeting somebody who was part of the Federal establishment saying, ''Well, if we do not have the Federal Government absolutely through regulation watch out for everything dealing with safe drinking water, who in the world will?'' It is because of that same Federal mentality—somehow somebody thinks only the Federal Government can be the guardian of the well-being of this country—I remind all of us we are the United States. We are not the Federal Government of America. There are 50 sovereign States that comprise this Union, and those Governors and those legislators and, within those States, those county commissioners and those mayors, they care about their people. If you had a situation in a community where there would be an outbreak of water contamination that would be life threatening, those elected officials would have a serious problem, not only the serious problem of immediately dealing with the life-threatening situation but they also probably would have a political problem because their constituents are not going to allow someone to somehow jeopardize the safety of that water which the children of that community are going to drink.

We have talked about cryptosporidium, the fact that it was not regulated in 1993 when there was an outbreak and 104 people died from that particular outbreak, and yet today cryptosporidium is still not regulated. We are going to change that, and this legislation allows us to improve, therefore, public safety and public health, and we are going to do it at less cost. We are going to provide flexibility to States and local communities, but we are going to then be able to target life-threatening contaminants such as cryptosporidium and go after those contaminants instead of contaminants that pose absolutely no health risk and yet require these communities to spend their finite dollars on expensive monitoring systems. If this is not in keeping with what this Congress is trying to do, I do know what is.

So I am pleased that we do have S. 1316 before us. I am pleased that in the Environment and Public Works Committee all 16 members of that committee, bipartisan, support this legislation, as well as the fact the leadership on both sides of the aisle, the majority leader and the Democratic leader, supports this legislation. We are currently working with some Senators who have proposals, amendments that they are suggesting would improve this particular legislation. We will work with them. I believe that we can resolve that. But again this is another significant step forward in our role as partners with State and local governments, working on behalf of the people of the United States of America.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mr. INHOFE). Without objection, it is so ordered.

Mr. KEMPTHORNE. Mr. President, I ask unanimous consent that I be allowed to proceed as in morning business.

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

ONE MARINE'S WILL TO SURVIVE

Mr. KEMPTHORNE. Mr. President, Lance Cpl. Zachary Mayo, from Osburn, ID, population 2,000, is a marine aboard the U.S.S. *America*. In the early morning hours of November 25, just a couple days ago, he was swept overboard from his assignment on the U.S.S. *America*. The Navy conducted 3 extensive days of searching, utilizing different ships and helicopters to locate Lance Cpl. Mayo. His mother and father had been notified that their son was missing at sea.

I just got off the phone with Mr. Stanley Mayo, the father, who received a call at 4 a.m. this morning that his son is OK. In fact, he spoke with his son. After 36 hours in the water, Zachary was picked up by a Pakistani fishing boat. He has been taken to Pakistan and is now in transit to the United States Embassy and will be returned shortly.

In speaking with his father and learning a little bit about what it must have been like to be swept over and spend 36 hours without a flotation device, he described the survival technique utilized by this tough marine of utilizing the clothing and tying knots in both the sleeves of the uniform jacket, as well as the pants, and creating an air chamber. I think this, again, shows the quality of the people that we have, and this is a testament to a young man's determination to survive—which he did, after 36 hours in I believe the Arabian Sea. Also, it demonstrates the faith of a family that never gave up hope, and all in the Silver Valley were determined that they would receive that good news.

Stanley Mayo told me moments ago that he went to bed last night with the prayer that in the morning he would hear from his son, and that prayer was answered. So I know that all of us rejoice in what will be an outstanding reunion. Stan Mayo said that he cannot remember when he ever had such news that brought him such joy, except perhaps when it was the birth of Zachary. So now to have the news that his son will be returned is something we can all rejoice in.

Again, this is a testament to the ability of our U.S. military personnel and their dedication to survival and carrying out their assignments. Again, I think it is something that we need to make note of. I say to the Mayo family, God bless all of them.

With that, I yield the floor.

Mr. COHEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Maine.

A TRIBUTE TO OUR ARMED SERVICES

Mr. COHEN. Mr. President, first let me congratulate my colleague for his very poignant recitation of what took place and join him in congratulating the men and women who serve in the armed services for the kind of dedication and creativity and ingenuity that is involved in preparing themselves for the ultimate conflict they must always be prepared for.

I think his recitation only adds greater credence and compliments the leadership being shown in the armed services and the kinds of people being

recruited day in and day out. The American people—not to mention this particular father—have a great deal to be proud of. So I commend him for his statement.

Mr. KEMPTHORNE. I thank the Senator.

SAFE DRINKING WATER ACT AMENDMENTS

The Senate continued with the consideration of the bill.

Mr. COHEN. Mr. President, I want to commend Senator KEMPTHORNE along with Senators CHAFEE, REID, and others, for their efforts to bring to the floor this important safe drinking water legislation, which I was pleased to cosponsor. The changes that would be made by this bill—reducing unnecessary burdens and costs to communities and ratepayers while guaranteeing reliable drinking water—have been sought by cities and towns in my State for many years now.

The Safe Drinking Water Act is perceived at the local level to be one of the most expensive and onerous Federal environmental requirements that we have. Reform of drinking water regulations has been a top priority of local officials across the country as they expressed increasing frustration with unfunded Federal mandates. As a former mayor, I understand the difficulties local officials encounter when they are faced with an enormous number of requirements and little money to pay for them.

I was pleased to be an initial cosponsor of the Unfunded Mandates Reform Act of 1995 which was the first step taken by Congress to reduce the impact of unfunded mandates. That was enacted into law last March under the leadership of Senator KEMPTHORNE. It is going to make it much more difficult to enact new unfunded mandates.

The second step toward reducing the burden on communities is to directly address the unfunded mandates that currently exist on the books. The bill before us today represents a very thoughtful and prudent approach to this critical second step.

The purpose of the bill is to maintain a safe drinking water supply while reducing the cost to communities and ratepayers. We need to remind ourselves that while cutting costs is very important, it is also critical that we do not lose sight of the fundamental goal of providing citizens with clean drinking water. People expect the water coming out of the tap to be safe, and we must not do anything that would jeopardize public health.

It is a sorry comment indeed that you read in the local paper in this community that people need to boil their drinking water. Here we are in the Nation's Capital where people have to be alerted that the water they are drinking is not safe, that it contains harmful bacteria. Therefore, local residents are told to be sure to boil their water. That does not say very much for the state of affairs in this community, to say the least. But it is a warning, perhaps, to all of us that we cannot simply engage in looking at the costs without taking into account what the major and central goal has to be: protecting the health and welfare of our people.

This bill would amend the Safe Drinking Water Act to increase the role of risk assessment and cost-benefit analysis in standard setting. It would also provide waivers from various requirements for small drinking water systems, and would authorize a revolving loan fund to provide funding for drinking water infrastructure projects. This legislation goes a long way toward providing flexibility for States and municipalities to develop drinking water programs that make sense for particular communities instead of the current one-size-fits-all approach.

One of the most critical aspects of this legislation is its recognition of the unique problems expensive Safe Drinking Water Act requirements pose to small communities. A recent CBO study found that the Safe Drinking Water Act has resulted in fairly modest costs for a majority of the households in this country. Approximately 80 percent of the households are expected to incur costs of $20 annually. However, the CBO noted that ''the household served by small water systems are particularly likely to face high costs,'' some well in excess of $100 per year. Additionally, that study found that costs to ratepayers tend to be higher for surface water systems than for groundwater systems.

In Maine, the majority of households get their water from municipal systems, all but a handful of which serve fewer than 10,000 users, and most of which serve less than 4,000 users. Maine has a relatively high percentage of water systems that rely on surface water as their source. Because this water has historically been very clean, few towns had filtration facilities. As a result, Maine water systems now have spent over $150 million in the past few years to comply with the surface water treatment rule, which has been particularly hard for these small community systems.

One example of this would be Southport, ME. It is an island town of about 650 year-round residents, where the voters recently rejected—overwhelmingly, I should point out—a $300,000 plan to bring the town into compliance with the Safe Drinking Water Act. The town's 70-year-old system relies on surface water since there is little potable ground water on the island. Providing water that meets the law's standards would raise the annual water rates for seasonal residents from $136 to $306.

In Searsport, ME, the water district is currently proposing a 66-percent rate increase due to the need to convert from surface to ground water. As a result, the water costs of one Searsport company would increase by $48,000 a year. The company, understandably, is considering other water sources, although the implication for other users are going to be enormous if that company left the town system.

Finally, I would like to share just one more example of the need to reform the Safe Drinking Water Act. Among the many letters I have received from Mainers expressing concerning about the law's impact is a very thoughtful letter from Mrs. Audrey Stone of Bucksport. Mrs. Stone wrote:

> As I rely totally on my Social Security check and therefore am restricted to a fixed income, as are many other residents in this community, you can readily see that the impact of a water rate increase in excess of $200 per year poses grave threats to my ability to maintain my residence. Additionally, those residents who have another source of water supply may choose to shut off the water company at the street, returning to their own source of water and defeating the purpose of this previously enumerated act. Further, this leaves less ratepayers to absorb the cost of the mandated improvements.

Mr. President, I strongly believe we have to preserve public confidence in the safety of our drinking water, but current Federal laws seek to achieve the goal of clean drinking water in a very expensive and sometimes very wasteful manner.

This bill will maintain a safe drinking water supply and reduce unnecessary costs and burdens to communities and utilities that provide the water. By reducing unnecessary costs and providing additional Federal funding, communities will be better able to maintain reasonable rates and address other public works concerns and priorities such as law enforcement and education.

Mr. President, there was a former city official from Lewiston, ME, who said, as a result of the costs of water regulations to communities, ''We will have the cleanest water in the State and the dumbest kids.''

It was a provocative statement, but it certainly hit home because he indicated that he was faced with a Hobson's choice of either obeying Federal environmental mandates or spending money on educating the community's children. He could not do both.

I think this legislation will help solve that Hobson's choice and allow some flexibility to small communities so they may meet the goal of protecting our people while not forcing them to cut education and other high-priority items.

I urge my colleagues to support this important legislation. I yield the floor.

Mr. BURNS. Mr. President, I rise today to support final passage of Senate bill 1316, the Safe Drinking Water Act Amendments of 1995. I am proud to be an original cosponsor of this important bill.

Montana is an extremely rural State. In fact, we don't have a drinking water system that serves more than 100,000 people. Most of our water systems don't serve more than 10,000 people. Meeting the requirements under the

existing water laws has been difficult, at best, for many of these communities.

The bill we are considering today is a step in the right direction. It will give relief to communities and improve public health regulations by reducing burdensome and unnecessary regulations.

Over the next 8 years, this bill authorizes $1 billion annually in Federal grants. These grants go directly to the States where loans or grants can be made to local water systems. In addition, this bill contains a provision where a percentage of the funds can be allocated for disadvantaged communities. This bill also gives our Governors the flexibility to transfer funds between the clean water and drinking water State revolving loan funds.

The bill provides $15 million for technical assistance for small systems. This is a $5 million increase over existing levels. The technical assistance program often is the only contact systems have to meet the requirements under the Safe Drinking Water Act. In addition, S. 1316 allows the technical assistance funding to be used for the rural water wellhead-groundwater protection program. This has been one of the most successful programs in rural communities. And prevention is less expensive than remediation.

Included in the current law, is a mandate to promulgate standards for 25 additional contaminants every 3 years. S. 1316 repeals this mandate and sets a new mechanism to identify contaminants for future regulations.

The most expensive part of running a water system is the monitoring which must occur. S. 1316 moves the decision to the States regarding monitoring. This will allow local conditions to be considered. Systems serving up to 10,000 people can skip repeat testing for many contaminants that do not pose health risks if the first sample in a quarterly series does not detect the contaminant. This could reduce the monitoring by 75 percent in some communities.

Most importantly, this bill contains no new Federal mandates. S. 1316 does not contain any new Federal regulatory program. Montanans want the Federal Government out of their lives, and this bill not only does not add new regulations, it streamlines the requirements contained in the current bill.

There is no constituency for dirty water. However, the problem with the existing law is it is based on fines and penalties. The bill we will pass today takes us away from that mentality. It gives the States and communities the tools to provide folks with safe water. It is a bill based on providing communities with assistance, not penalties.

I am pleased to be an original cosponsor of this bill and I look forward to it being enacted into law.

Mr. LIEBERMAN. Mr. President, I am pleased to rise in support of the Safe Drinking Water Amendments Act of 1995. I want to commend Senators CHAFEE, KEMPTHORNE, BAUCUS, and REID for their excellent work in crafting a bipartisan bill.

This bipartisan effort is particularly important because environmental issues have been marked by such sharp and bitter controversy this Congress. Twenty-five years of bipartisan support for strong environmental protection have been placed in jeopardy. I hope that this bill will serve as a model for getting us back on track. The bill makes reasonable changes to the Safe Drinking Water Act but does not roll back protection of human health.

The No. 1 responsibility Congress has, and what people demand from us, is to protect the people we serve from harm. That means guarding our national security with a strong defense, and keeping our streets safe from crime. But that also means protecting people from drinking poisonous water, breathing dangerous air, and from eating contaminated food—in other words, protecting people from harms from which they cannot protect themselves. We can and should reform our laws to make them more cost-effective and to eliminate unnecessary requirements. But we should not waiver from our responsibility to protect people.

One of the major reasons that the current Safe Drinking Water Act needs adjustment is that many drinking water systems—mostly smaller systems—have difficulty complying with the law because of lack of funding and expertise. These systems also often lack trained operators. The legislation addresses these issues by authorizing a State revolving fund of $1 billion per year through 2003 to upgrade facilities to enable systems to come into compliance with the current standards, and by requiring that States receiving SRF money must have a system of operator certification and a training program.

The issue of the use of cost-benefit analysis in setting standards for protecting human health and the environment has been extremely controversial this Congress, particularly in the context of regulatory reform legislation. This bill demonstrates that the most effective way for Congress to consider the use of cost-benefit analysis is in the context of individual statutes. In the abstract, in the context of a broad regulatory reform bill covering every health, safety, and environmental law, cost-benefit analysis becomes highly contentious because we simply don't know the impact on all the laws we are affecting. But this legislation demonstrates that we can clearly reach agreement when we look at individual statutes.

This legislation allows the EPA Administrator discretion to utilize cost-benefit analysis to move away from technology-based standards in those circumstances where benefits do not justify costs. But there are logical limits restrictions on this authority that make sense in the context of the Safe Drinking Water Act. These restrictions include the following. First, the discretion is solely with the Administrator to use this authority. No court may compel the Administrator to use this authority. Second, the Administrator cannot use this discretion when the benefits justify the costs for large systems and variances from the standards are available for small systems. Third, the Administrator cannot use this authority to make any existing standard less stringent. In other words, there can be no rollback of human health protection. Fourth, the authority may not be used for rules relating to cryptosporidium and disinfectants or disinfectant byproducts. Fifth, there must be a full consideration of nonquantifiable benefits in any analysis of whether benefits justify costs. Sixth, the health effects on sensitive subpopulations must be considered in determining whether benefits justify costs. Seventh, judicial review of the Administrator's determination of whether benefits justify costs can only occur as part of the final rule and can only be considered by the court under the arbitrary and capricious standard.

Some concern has been expressed in the Litchfield County area of my State regarding levels of radon found in their drinking water, and the environmental community has raised concerns that the radon standard in the bill is not strong enough. Unfortunately, since 1992, Congress as part of the appropriations process has prevented EPA from issuing a radon standard. The EPA spending bill this year, which I opposed, again included this restriction. Those who have led this effort cite the fact that the EPA Science Advisory Board, in a report to Congress, raised serious concerns about EPA's approach to regulating radon.

This bill moves the process forward by establishing for the first time a Federal standard for radon at a level which the managers of the bill indicate finds support in the EPA Science Advisory Board report. Importantly, however, the bill contains a specific provision allowing the EPA Administrator to set a more stringent level for radon if certain conditions are met; in addition, States have the authority to set more stringent standards. I am confident that the EPA Administrator will take this authority very seriously, and I intend to follow up with the Agency on its use of this authority.

Finally, the provisions relating to source-water protection are, in my view, not strong enough. As we have found in Connecticut, protecting the sources of drinking water makes good common sense—it's pollution prevention that will save water systems and communities money. I hope these provisions can be strengthened in the House and conference.

Again, my congratulations to the managers.

Mr. BOND. Mr. President, today the Senate has the opportunity to demonstrate that the Federal Government is responsive to needs of the States and localities as they seek to provide quality drinking water to their citizens. It

is imperative that Congress move forward on a Safe Drinking Water Act [SDWA] that revises the standard setting process that bases drinking water standards on an analysis of costs and public health benefits, eliminates unnecessary monitoring requirements, and has regulations based on the occurrence of a given contaminant and existence of public health risks instead of an arbitrary and escalating schedule of contaminants.

Congress passed the Safe Drinking Water Act in 1974 following public concern over findings of harmful chemicals in drinking water supplies. The intentions were admirable, but today's SDWA is a law that is too rigid and fails to prioritize risks. The current law operates under the notion that EPA bureaucrats are better able than local public health officials to determine the public health needs of a local community. Because of this, contaminants like cryptosporidium that ought to be regulated go unregulated because water operators are too busy expending limited resources on testing for so many random and sometimes obscure substances. In addition, the law fails to acknowledge that today's drinking water systems are capable of efficiently delivering 40 million gallons of safe water to American homes every day.

The current SDWA is also an excellent example of a statute where litle or no science is required to regulate; there is no flexibility to set priorities based on risk to public health until 83 contaminants are regulated.

The 1986 amendments to the Safe Drinking Water Act required EPA to regulate a specific list of 83 contaminants, allowing the Agency seven substitutions. Regardless of the health risk associated with each of the contaminants listed in the statute, EPA was told to regulate 9 contaminants 1 year after enactment of the statute; 40 contaminants within 2 years of enactment; and the remainder 1 year later. Once EPA completes the list of 83, the statute goes on to require EPA to finalize regulations for 25 new contaminants every 3 years regardless of whether the contaminants occur in drinking water, or whether they are of public health concern.

Nowhere in the statute does it say that the Agency should have good science, or peer-reviewed science or that if there are contaminants in drinking water supplies of greater health concern than those on the list, that EPA should regulate them first.

EPA acknowledges that they have found it impossible to keep up with the statute's requirements and recognizes that the requirement has resulted in some pretty poorly drafted rules. In fact, in EPA's 1993 report to Congress, the Agency was quite frank about the statute's required deadlines and the quality of the data used. The Agency said in its report:

> To meet these deadlines, data collection and analysis have not always been as thorough as desired. Document drafting and management review had to occur simultaneously and documents have needed to be rewritten and rereviewed. Short review periods have resulted in oversights and the need to publish correction notices. Regulations covering multiple contaminants have often been lengthy and complex. Thus, the public had difficulty providing thoughtful comments and the Agency had limited resources for gathering and analyzing additional data in response to comments. In some cases, unrealistic deadlines have contributed to the Agency's difficulty in addressing the unique technical and economic capacity problems of very small systems.

The current drinking water law, in other words, has played a large role in creating the information vacuum that now exists on the regulation of cryptosporidium for instance.

One reason it has taken EPA so long to focus on cryptosporidium is the current law. Its rigidity and lack of flexibility have created a situation where even EPA's resources have gone to complying with a requirement to regulate an arbitrary list of 83 contaminants, most of which according to EPA occur in drinking water seldom and rarely at levels of public health concern, rather than concentrating efforts on priority contaminants. Even more wasteful is the significant amount of funds being spent by local communities monitoring for contaminants that do not occur in their particular source of water. Hundreds of millions of dollars a year are spent on monitoring for the contaminants regulated currently.

If we are not looking at what is occurring in the drinking water supply and we are not required to have adequate or even good science to regulate, it is not surprising that we wind up regulating contaminants that may not be of the highest concern—and those priority contaminants, such as cryptosporidium, go unregulated.

Local water suppliers, however, have recognized the need to move ahead without EPA regulations and have led the effort to develop a voluntary partnership with the States and EPA to enhance existing treatment processes to help safeguard drinking water from cryptosporidium in advance of the knowledge needed to develop an appropriate national regulation.

It is past time that the Federal Government get in step and develop reforms that allow for prioritization of standards based on risk to the human population.

It is past time to bring common sense to both laws and regulations.

I commend Senators KEMPTHORNE, REID, CHAFEE, and BAUCUS for working diligently to get this broad, bipartisan supported legislation to the floor. I will support this legislation because it goes a long way in improving the current law. It eliminates the arbitrary schedule of contaminants, provides much-needed assistance to small systems, requires good, peer-reviewed science, changes standard setting requirements, implements voluntary sourcewater protection initiatives, and many more things. It is imperative that these changes are made. However, I do have some concerns with the legislation and this is why I have not cosponsored the bill.

I believe we need to do more to ensure that those responsible for providing safe drinking water can adequately pursue the activities deemed most important in protecting public health with the resources available. We need to continue to address seriously the issues of risk assessment and cost-benefit analysis.

According to the National Academy of Public Administration, the NAPA report:

> The tools of risk analysis and economic analysis help clarify regulatory and priority-setting issues confronting EPA and Congress. The discipline of analyzing risks, costs, and benefits encourages a degree of consistency in approach to understanding problems and defining solutions. The tools can and do provide information that is important for decisionmakers to consider. Shelving any of these tools, as some advocate, would be foolish and counterproductive, an invitation to muddle through rather than to learn and think.

By setting risk based priorities we have the best opportunity to allocate, in the most cost-effective manner, the resources of the Government and private sector in protecting the public from contaminants in drinking water. We need to do all we can to provide greater protection to the public at less cost than the current system mandates.

Once again, the NAPA report urges that:

> Congress should ask the agency to explain its significant regulatory decisions in terms of reductions in risk, and in terms of other benefits and costs. The agency should support state and local efforts to engage the public in comparing environmental risks, report periodically to Congress on a national ranking of risks and risk-reduction opportunities, and use comparative risk analysis to help set program and budget priorities.

One of the reasons that I stress the issues of risk assessment and cost benefit as they relate to budget priorities is because that is the only way we are going to get the ''biggest bang for the buck.'' My colleagues on the committee have already heard my concerns regarding the authorization for appropriations in this bill. I was hoping that my concerns were going to be addressed, but I understand my colleagues on the other side of the aisle have objected. Therefore, I am compelled to share with everyone, once again, my views regarding this issue.

Every single one of us, Republican or Democrat, has a responsibility to balance the budget. We have seen over the last several weeks that our views might not be identical on how to achieve this objective, but the objective is the same—a balanced budget.

As authorizers, not just on this committee, but all committees, we must start to be more realistic in our funding expectations. Do not get me wrong, I know that as an authorizer I would probably authorize more than I know would be appropriated—so as not to tie

the hands of the appropriators and just in case the slim chance would exist that full funding could be achieved. However, authorized pie-in-the-sky numbers have contributed to our budget problems and in my opinion, when we know from the beginning that the proposed authorization for appropriation is not possible we are being unfair to all our constituents.

Reality is that discretionary spending is declining. The EPA budget was reduced this year. We have no choice but to try to do more with less. We must prioritize. As chairman of the relevant appropriations committee I would love to appropriate what everyone wants—point me to the money machine.

Since the funding does not exist—how can we continue to mislead and give the impression that things are possible when they are not. Unfortunately, there is a wide gap between the wish list in this bill and available resources.

Once again, I was hoping that this concern would be addressed, and am disappointed that it was not. I guess I will follow the direction that the distinguished committee chairman, Senator CHAFEE, provided during markup. The decisions will have to be made solely in appropriations.

I also need to address one final concern in relation to the proposed disinfection-disinfection byproducts rule. The provision in the bill, in my opinion, greatly discourages the use of chlorine in water treatment despite the many health benefits chlorine provides. The language exempts this rule from cost-benefit analysis, sound science and comparative risk assessment. Considering the proposed cost of this rule, I am concerned that this will be an unfunded mandate to the States and localities.

Once again, I thank Chairman CHAFEE, Senator BAUCUS, Senator KEMPTHORNE, and Senator REID for their leadership and diligence on this issue. I learned long ago that you do not always get what you want. Maybe next time.

Mr. HATFIELD. Mr. President, the bill now before the Senate represents the best of this body. This legislation has been a long time in the works, and the final product shows the high level of commitment to this important area of policy.

There are few things that touch more aspects of life in Oregon than water. From electricity, to fishing, forestry, and agriculture, no issue is more central to Oregon. And of course, the women, men, and children of my State, like all others, depend on a clean, healthy supply of water to drink.

I have always supported the Safe Drinking Water Act. I voted for the original provision in 1974 and for the 1986 amendments. I am proud to be an original cosponsor of the legislation introduced by a bipartisan group led by Senator KEMPTHORNE.

In 1993, I met with over 150 representatives of water systems in Oregon to discuss the approaching reauthorization of the Safe Drinking Water Act. I have also received hundreds of letters in the last year from system operators and local officials. These are truly committed public servants who care deeply about the health of those in their communities. Their input has greatly assisted me in navigating through this debate.

Mr. President, I believe water is our most vital resource. Water provides much of the clean electric power produced in the Northwest. Water is vital to Oregon's strong agricultural production. And where would our fisheries and forestry industries be without water? None of these is of more intimate importance to each of us than the water we consume. Our bodies cannot live without water.

Many inside the beltway call Oregon the land of liquid sunshine. They say we do not tan, we rust. Well, we know that is not always true. We have recently experienced the difficulties of a 6-year drought, which taught us that water should never be taken for granted.

Today Oregonians are confronting the damage that can come about due to too much rain. Heavy rains have hit the Pacific Northwest in the past several days causing significant problems, particularly in Yamhill and Tillamook Counties. Our Governor has declared a state of emergency in these counties.

I ask unanimous consent that an article from today's Oregonian newspaper be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. HATFIELD. The heavy rains have resulted in a landslide in Portland's renown Bull Run watershed, which has provided pure drinking water from the Portland area for generations. The slide severely damaged a bridge crossing which carries two of the three conduits which bring drinking water from the Bull Run watershed to Portland. No water is flowing through the two damaged pipes. The third pipe is underground and is still in operation. The two dams in the watershed are undamaged.

City officials have two main concerns: public health and adequate supply. The Portland Water Bureau is closely monitoring both contamination levels and turbidity. At this stage, no public health problems have arisen.

The second issue is adequate supply. The city's daily water usage this time of year is 90 million gallons per day. The one remaining conduit from Bull Run has a capacity of 75 million gallons per day. Any additional supply up to the 90 million gallons per day will come from the city's existing well fields in northeastern Portland near the Columbia River. In addition, over 270 million gallons is currently stored in reservoirs throughout the city.

Temporary repair of the two conduits from Bull Run could take weeks. A permanent fix could take months. Engineering studies are already underway.

This shows us once again the importance of our precious water resources. It shows us the importance of providing our local officials with the resources they need to respond to unpredictable challenges. These officials must have the flexibility and the resources to carry out their responsibilities.

The legislation before us today meets that and many other goals. It is a significant accomplishment and I am proud to cosponsor it. Let me take a moment to review the concerns I have heard from hundreds of Oregon communities and take note of how these concerns have been addressed in the legislation before us.

As my colleagues recall, last year, many months of effort were put toward crafting a bipartisan Safe Drinking Water Act reauthorization bill. I was proud to work closely with Senator KERREY in an attempt to bridge the partisan differences that had emerged on the issue. The final product passed this body with overwhelming bipartisan support. Efforts to bring the bill to a conclusion late in the session were not successful. I am pleased that many of the provisions in the bill before us today clearly emanate from last year's bill.

SELECTION OF NEW CONTAMINANTS

One of the most frequently cited problems with the current law is that in the 1986 reauthorization, Congress required EPA to regulate 25 new contaminants every 3 years, whether they need to or not. The bill before us eliminates this requirement and replaces it with a requirement that EPA take action with respect to at least five contaminants every 5 years beginning in 2001. This change will provide tremendous regulatory relief to EPA, States and water systems.

RISK ASSESSMENT

Citizens of Oregon want to know that the contaminants EPA decides to regulate actually pose a health risk. They feel that the process of regulation is too often divorced from sound scientific evidence of risk from a contaminant.

This legislation requires EPA to use good science and assess the risk of contaminants before proceeding with regulation. The bill gives EPA authority to regulate contaminants based on their actual occurrence in drinking water and the real risks they pose. This will help EPA pursue regulations of the substances in drinking water that pose the greatest threat to human health.

COST-BENEFIT ANALYSIS

Nearly everyone I have spoken to in Oregon is concerned that EPA sets standards for contaminants at a level that is unrelated to the level of health protection secured for the cost. Small systems need consideration of risk even more than larger ones. The bill before us allows the Administrator the flexibility to set standards at levels

other than those technically feasible and affordable to large systems, when it makes sense to do so in light of the risk reductions to be achieved and the compliance costs.

This is a critical element of reauthorization because it will create a tighter and more explicit relationship between regulations, health protection, and the compliance costs. I strongly commend Senators KEMPTHORNE, CHAFEE and BAUCUS for helping solve this thorny issue.

MONITORING BURDEN

Oregonians have complained that they monitor for contaminants that have never been in their water. By ignoring differences among geographic areas, we force local systems to devote resources to contaminants they do not have. This takes vital resources from real problems. This bill includes provisions similar to those added by Senator KERREY and myself to the 1994 Safe Drinking Water Act reauthorization bill that will allow State drinking water programs to design monitoring programs that are appropriate to conditions faced by their State.

SMALL SYSTEM FLEXIBILITY

In Oregon, I learned that small systems are particularly hard hit by many of the current Safe Drinking Water Act regulations because they do not have the economies of scale of a large city. The bill before us addresses this problem in several ways. First, there is monitoring relief for small systems. Moreover, systems serving less than 10,000 people are eligible for a streamlined variance process and a small system technology program. A number of other flexibility provisions are included in the bill for small systems.

SUFFICIENT RESOURCES

Oregonians have told me that the regulations governing drinking water are technical and expensive. In addition, GAO reported last year that State programs are underfunded.

To begin to solve this problem, the bill authorizes a $1 billion annual State revolving loan fund. The bill also authorizes an additional $90 million for health effects research, a wise investment for public health.

CONCLUSION

I strongly urge the Senate to support this bill. These provisions strengthen the Safe Drinking Water Act, not because they make the act more rigid and stringent, but rather because they will help us—in Congress, at EPA, in the States and in every local water system—focus drinking water resources on the most pressing problems and on the biggest threats to health.

Again, let me commend the managers of this legislation for their fine efforts in bringing this matter to the floor in such a sound bipartisan manner. I look forward to casting my vote in favor of this legislation.

EXHIBIT 1

[From the Oregonian, Nov. 29, 1995]

WHEN IT RAINS, IT POURS

(By Stuart Tomlinson, David R. Anderson, and Pat Forgey)

Oregonians paused to assess and clean up the damage caused by heavy rain Monday and Tuesday and braced for another, stronger storm expected to hit Wednesday.

Gov. John Kitzhaber declared a state of emergency Tuesday in Tillamook and Yamhill counties because of landslides, flooding and road washouts.

''It's a mess,'' Tillamook County Commissioner Jerry Dove said after a helicopter tour Tuesday. ''I have never seen anything so devastating.''

Heavy rain falling on ground saturated during one of the wettest Novembers on record sent several coastal rivers over their banks, trapping motorists, closing schools and driving residents from their homes.

By Tuesday afternoon, the rain slackened, which allowed the river levels to subside. But forecasters warned of heavier rains Wednesday, accompanied by winds that could reach 75 mph on the coast.

''The flood season has just begun,'' said Clint Stiger, a hydrologist for the National Weather Service in Portland. ''We're very concerned about the storm coming Wednesday because there is just not much more moisture the soil can contain.''

Flood alerts were posted Tuesday for rivers throughout Western Washington, and Gov. Mike Lowry declared a state of emergency in Clark County and 10 other Washington counties late Tuesday. The declaration is retroactive to Nov. 7, when heavy rains began causing flood damage in Washington.

While flooding was reported on the Clackamas River, Johnson Creek and the Tualatin and Salmon rivers outside Portland, the northern Oregon coast was hardest hit.

Kitzhaber's emergency declaration will allow the Oregon Department of Transportation to use highway safety money for emergency road repairs. The declaration also means the governor can use the Oregon National Guard to assist in flood cleanup or for security.

More than 6 inches of rain fell in about 36 hours at Lee's Camp, a reporting station outside Tillamook. A rain gauge at a Tillamook city reservoir can measure a maximum of 7.5 inches, but it overflowed in less than 24 hours Monday night and Tuesday morning.

Snow that had fallen during the weekend melted under the onslaught of record warm temperatures. With 58 degrees, Portland broke a record for the date set in 1982, while Eugene had a record-tying 60 degrees.

Portland is inching toward breaking the all-time rain-fall record for November, which was 11.57 inches in 1942.

By 10 p.m. Tuesday, rainfall at Portland International Airport reached 10.28 inches.

Rain was the main problem Tuesday, but high winds could bring problems throughout the day Wednesday.

Forcasters issued high wind warnings for the north and central Oregon coast through Wednesday, with gusts up to 75 mph on exposed headlands and gusts to 40-plus mph inland.

Heavy rain also hit Eastern Oregon. The National Weather Service issued small stream advisories for portions of Umatilla County.

Snow levels rose to about 8,000 feet by Tuesday, but they were expected to plummet Thursday and Friday to about 4,000 feet, with more snow forecast for the northern Oregon Cascades.

A storm containing moisture from nearly 1,000 miles southwest of Hawaii brought the rain and warm temperatures to the state. It's part of a pattern of storms that rake the region during November and December.

Oregon is on the edge between warm, tropical air to the south and colder air to the north.

''Where the two air masses come together, there is often a violent meeting on the boundary,'' said state climatologist George Taylor. ''The atmosphere is trying to reach equilibrium.''

So were Tillamook County residents.

Crews worked all Tuesday to reach people trapped in their homes by mudslides, mostly on the Trask and Kilchis River roads.

By late Tuesday, about 50 homes, with as many as 200 residents, on Trask River Road still were cut off by 15 to 18 landslides. Some routes were cleared only to be closed again by slides or flooding.

Tillamook County Sheriff Thomas Dye said a U.S. Coast Guard helicopter dropped a paramedic in the area to check on a 3-year-old girl suffering from the flu. The girl checked out fine, and the paramedic left by helicopter.

Jon Oshel, the county public works director, said he hoped to have Trask River Road open by dark. Kilchis River Road presented a bigger problem, although only about 10 families still were cut off.

''We lost a major piece of road there that's just flat gone into the river,'' Oshel said.

Tillamook County Commissioner Ken Burdick lives up Trask River Road, where he saw what he called the worse devastation in 42 years.

''We sat there last night until 4 a.m., listening to canyons blow out,'' he said.

Burdick didn't get out of his house until late Tuesday, when county road crews working their way up the Trask River reached him.

During a helicopter tour, Dove said every canyon they looked at east of Tillamook had been hit with a gully-washer, blocking roads, washing out culverts and carrying trees and stumps downriver.

Dove said he saw houses flooded and dairy farmers cut off from their cows.

The Wilson River Highway, the main road between Tillamook and Portland, was closed between Tillamook and Glendale by landslides. The road wasn't expected to be open to through traffic until late Wednesday, traffic officials said.

Mike Fredericks, who lives along the Wilson River, was forced from his trailer by rising floodwaters. When he came back Tuesday, he expected his trailer to be in Tillamook Bay.

When he left the night before, his trailer was an island buffeted by what used to be the hillside across the Wilson River Highway.

Because of a clear-cut last summer, he said, the culvert that drains the hill clogged Monday night.

The water had to go somewhere. When he went next door to talk to his neighbor, a veteran of six years on the river, Fredericks found out where.

''As soon as we turned our heads, down came the hill,'' Fredericks said. ''The creek was hitting the trailer house and fanning around each side.''

Fredericks' cat, Cubby, was washed away. His mailbox, telephone bill and all, ended up about 50 yards from the house.

The trailer, which is about five miles east of Tillamook, survived the deluge and moved not an inch toward the Wilson River. If it weren't for the mess in his yard, Fredericks would have felt fortunate.

The new stream cut a 10-foot-deep gully across the lawn, halfway between his trailer home and recreational vehicle. Sheared logs, about a foot of mud and hundreds of basketball-size rocks littered his lawn.

In Yamhill County, the Three Rivers Highway dropped about 4 feet at milepost 13.5. The highway was reopened after emergency repairs were completed.

Although the rains were impressive, river levels still were below historic flood levels.

During a January 1990 flood, the Nehalem River crested at 25 feet; Tuesday's peak reached 16.2 feet. In January 1972, the Wilson River crested at 16.9 feet; Tuesday's peak reached 13.2 feet.

Flooding caused the aptly named Roaring River Bridge, at the confluence of the Roaring and Clackamas rivers about 17 miles southeast of Estacada, to sink two feet Tuesday morning.

A large log, probably loosened from an embankment eroded by the floodwater, rammed and bent the bridge pilings, said Gary McNeel, an assistant district manage of the Oregon Department of Transportation office. The 45-year-old bridge serves about 1,100 vehicles a day.

In Clackamas County, firefighters and the sheriff's deputies evacuated residents of the Eagle Creek Mobile Home Park near stormswollen Eagle Creek for several hours early Tuesday.

Worst hit were Terry and Toni Hirbeck. Their doublewide at 30773 S.E. Creekside Lane, about a mile upstream from the Clackamas River, had water up to its subflooring and no yard at all.

''I woke Terry up at 11 o'clock last night to tell him the water was coming up,'' said Toni Hirbeck, 33. ''And from 11 o'clock to midnight, the water rose so much that stuff was already floating.''

By 2:30 a.m., firefighters from the Boring Fire Department had to rig a rope across the lane as a lifeline so the lane could be forded more safely.

WEATHER WOES

The coast

Tillamook: High water and mudslides closed dozens of roads. Many residents were stranded in homes and cars. The Wilson River Highway, the main road between Tillamook and Portland, was blocked by slides. School districts in north and central Tillamook County closed Tuesday, after officials decided it was to risky to send buses out.

Multnomah County

Bull Run: A mudslide smashed two of three conduits supplying Portland's water from the Bull Run watershed Tuesday, sharply reducing the Portland area's water delivery system. Officials planned to avert a water shortage my drawing on reservoirs and turning on backup wells along the Columbia River.

Clackamas County

Roaring River: Flooding caused Oregon 224's Roaring River Bridge, over the Roaring River at the confluence with the Clackamas River about 17 miles southeast of Estacada, to sink about the two feet Tuesday. A large log rammed into and bent the pilings of the 45-year-old bridge that serves about 1,100 vehicles a day. Workers are expected to complete a temporary plate-steel bridge in about a week.

Clackamas River: The river was above flood stage at several sites, but particularly threatening at Carver. Residents of a mobile home park were bracing for possible evacuation.

Eagle Creek: Crews evacuated families from 12 homes about 1:30 a.m. Tuesday but allowed them to return later in the morning.

Salmon river: In the Mount Hood area, a few families were driven from their homes Monday night.

Sanbag help: County officials recommend calling 655—8224 to get information about sandbags and available help.

Clark County

Salmon Creek: A handful of residents north of Vancouver evacuated their homes Tuesday when Salmon Creek overflowed, sending several feet of water into basements, submerging lawns and uprooting trees. Homeowners and fire District 6 personnel sandbagged six homes at 136th Way and Salmon Creek Avenue to stem the damage.

Road Closures: Southeast Evergreen Highway was closed at 190th Avenue by water 3-feet deep across the pavement. Water crested above the guardrail and closed Leadbetter Road at 232nd Avenue north of Lacamas Lake.

Eastern Oregon

The storm caused flooding and power failures across much of Eastern Oregon. Several families on the Umatilla Indian Reservation near Pendleton wee stranded when the Umatilla river flooded rural roads. Eight inches of snow fell on the Ladd Canyon mountain pass between Baker City and La Grande, causing a massive tie-up.

Mr. SIMPSON. Mr. President, the Safe Drinking Water Act is important to every community in this country—large or small—rich or poor. This public health statute ensures that our citizens have clean water to drink when they turn on the tap. But this law is important for another reason as well—it can be very costly for small rural communities that simply do not have the financial resources necessary to comply with many of the stringent standards and monitoring requirements required by the act. All of us in Congress have been sensitized to the issue of unfunded Federal mandates because of the regulatory excesses brought out by the previous reauthorization of the Safe Drinking Water Act.

The Clinton administration makes the claim that Republicans don't care about the environment but that is pure balderdash. We care about the environment just as much and we are passing this legislation because we do care. We also care about real people—cities and small towns—and that is why we are putting some common sense back into the law.

The environmental groups may think that unfunded mandates are part of what they call an unholy trinity, but I can tell you that to a Member of Congress this issue is a very real concern. When I travel around my State and stop in small towns I always hear complaints about the Clean Water Act and the Safe Drinking Water Act and unfunded mandates.

The last time we reauthorized the Safe Drinking Water Act we caused a near crisis in small town America. Thousands of small towns are financially unable to meet Federal drinking water requirements and need help finding less expensive ways to make their water safe to drink. A recent GAO report said that meeting Federal drinking water standards is an acute problem for around 50,000 small communities that account for 90 percent of the drinking water violations. We need to find more cost-effective ways to provide these small towns with safe drinking water or we are going to be wholly discredited in the eyes of the American public.

The EPA estimates that it will cost small communities $3 billion to comply with current Federal drinking water regulations and another $20 billion to repair and replace and expand their current drinking water infrastructure and to meet future needs. It has been estimated that 70 percent of the costs will be incurred by small communities that account for 10 percent of the population. These communities cannot afford that kind of expense and I don't think a simple revolving loan fund will help enough.

Neither the Federal Government nor the States have developed policies that will reduce costs through less expensive technology or development of better financing and funding mechanisms. This situation must be remedied. We need to make direct grants to small communities along with a loan program and more importantly we need to revise monitoring requirements and change the ways standards are being set.

The bill we are considering is an improvement in this regard, but I don't think it goes far enough. The environmental groups have taken a paternalistic approach to this issue and they don't believe the States should be given flexibility in carrying out the act. This isn't the classic case where it is industry versus the greenies. This is Governors, mayors, State legislators, and water administrators saying ''Congress must do something radical to fix this program or we are going to go broke.''

I don't think the committee bill goes as far as I would have liked in directing EPA to consider cost and good science, but I think the final version represents a genuine effort to improve current law and it will cause EPA to take a more realistic approach to the standard setting issue in the future. For this reason I intend to vote for this bill and I trust the President will sign it when Congress sends it on to the White House.

Ms. SNOWE. Mr. President, Senator COHEN and I would like to engage the Senator from Rhode Island and the Senator from Idaho in a colloquy.

Mr. CHAFEE. I would be pleased to participate in a colloquy with the Senators from Maine.

Mr. KEMPTHORNE. I would be happy to engage the Senators from Maine in a colloquy as well.

Ms. SNOWE. As the Senators from Rhode Island and Idaho are aware, a number of very small, economically disadvantaged communities across the country are having serious difficulties trying to comply with the surface water treatment rule. Compliance with this rule can be very expensive, sometimes requiring a disadvantaged community with less than 500 residents to build a filtration plant costing over $1 million. Unfortunately, many of these communities cannot afford to construct these expensive facilities without substantial Federal assistance, and that assistance has not been adequate to meet the demand. This predicament

has caused a lot of frustration in certain small towns, particularly since the quality of their local water sources, which are often located in isolated rural areas, can be quite high and is not vulnerable to imminent degradation.

Mr. COHEN. I concur with Senator SNOWE on this point. There are 19 small, economically disadvantaged towns in Maine currently under compliance order to install filtration systems as required by the SWTR, and the deadlines for those orders will be expiring over the next year. Without adequate Federal financial assistance, these disadvantaged communities will not be able to comply with the filtration requirement.

We understand that section 13(b) of S. 1316 allows a State to exempt an economically disadvantaged public water system serving a population of less than 3,300 people from the requirements of a national primary drinking water regulation as they relate to maximum contaminant standards or treatment techniques for a period of up to 3 years, as long as there is a reasonable expectation that the system will receive Federal financial assistance during the exemption period. In addition, the bill would allow a State to renew this exemption in 2-year increments up to an additional 6 years.

Ms. SNOWE. We further understand that the authorities available under section 13(b) apply to the surface water treatment rule, as they do to other national primary drinking water regulations, and that section 13(b) would therefore allow a State to provide an exemption to a system serving an economically disadvantaged community in the predicament that we just described, provided the system meets the terms and conditions set forth in the section.

We would like to ask the chairman of the Environmental and Public Works Committee, Senator CHAFEE, and the chief sponsor of S. 1316, Senator KEMPTHORNE, if our understanding of this provision is correct.

Mr. CHAFEE. The Maine Senators' understanding of section 13(b) is correct. This section does apply to the surface water treatment rule as well as other Federal drinking water regulations. I very much recognize the problems that small disadvantaged towns are facing in complying with some of the expensive requirements of the act, and we hope that section 13(b) and other sections of S. 1316 will address these problems.

Mr. KEMPTHORNE. I concur with Senator CHAFEE that the Maine Senators' understanding of section 13(b) is correct. The surface water treatment rule is covered under this section. One of my major interests in drafting S. 1316 was to find ways to ease the compliance burden of the act on small, disadvantaged communities while maintaining public health protections. Section 13(b) is one of the provisions in the bill that will help us achieve this important goal.

Ms. SNOWE. We thank the Senators for clarifying this important matter.

Mr. KEMPTHORNE. Mr. President, there is an issue on which I would like to engage in a colloquy and get the support of the chairman of the subcommittee. I understand that efforts to gain an accurate and valid determination of drinking water quality often can be compromised by brief weather changes. Current regulations call for water quality compliance of a contaminant to be based on the annual average of four quarterly samples. But when quarterly samples are collected during such brief periods, inaccurate and misleading impressions of the water's annual average quality can result.

This situation is especially prevalent with respect to determination of agricultural and other non-point contaminants. spring thunderstorms often follow farmland tillage operations and necessary applications of fertilizers and crop protection chemicals, and natural storm water runoff can briefly elevate concentrations of these contaminants in water. A single spring quarter sample taken immediately after a major thunderstorm can put the water supplier out of compliance for the entire year and result in expensive and unnecessary water treatment.

More frequent sampling would give a more accurate assessment of the long-term exposure to these seasonal contaminants. Mr. Chairman, it is my impression that the provisions for alternative monitoring programs authorized in section 19 of the bill would authorize each State with primary enforcement responsibility to allow utilities to conduct time-weighted sampling during the quarters of concern. To balance accuracy with economic considerations, such alternative monitoring programs could allow utilities to composite monthly or more frequent samples for a single quarterly analysis for those contaminants which are known to be stable in storage.

Is this the understanding of the chairman of this committee?

Mr. CHAFEE. If the Senator will yield, Mr. President, that is correct.

Mr. KEMPTHORNE. I thank the chairman of the committee for his support and clarification of this section.

REGULATION OF ZINC

Mr. THOMPSON. I would like to engage the majority managers of the bill in a brief colloquy concerning the regulation of zinc—an essential trace element—under the Safe Drinking Water Act. As they are undoubtedly aware, there are a number of studies showing that children, particularly poor children, are seriously deficient in their intake of zinc. Drinking water is one important source of zinc for those children.

The managers are surely also aware that the Environmental Protection Agency has established at least one reference dose—or safe exposure level—that allows for less than the recommended dietary allowance for zinc for infants, children and possibly pregnant and nursing mothers, despite the needs of these particularly sensitive groups. In light of the essential nature of, and the recommended dietary allowances established for, zinc, is it the manager's view that EPA should consider these factors when regulating additional trace elements such as zinc?

Mr. KEMPTHORNE. I agree with the Senator from Tennessee that EPA should take into account: First, the essential nature of the zinc, and second, the recommended dietary allowances for the element for infants, children and pregnant and nursing women, when deciding whether or not the essential trace element zinc should be regulated under the Safe Drinking Water Act.

Mr. CHAFEE. I agree with the statement of the Senator from Idaho.

SMALL PUBLIC WATER SYSTEMS TECHNOLOGY CENTERS

Mr. BYRD. Mr. President, the bill before the Senate, S. 1316, the Safe Drinking Water Act Amendments of 1995, provides for the establishment of a grant program, to be administered by the Environmental Protection Agency [EPA], that would fund not fewer than five Small Public Water Systems Technology Assistance Centers across the United States. I commend the Committee on Environment and Public Works for the action it has taken in this regard. I would, however, ask for some clarification of the criteria listed in the new subsection (h). The criteria listed in the bill reference technical assistance support activities that would be provided by regional centers. My question to the managers of the bill is:

Would a national center engaged in the following activities meet the criteria listed for the proposed Small Public Water Systems Technology Centers?

A clearinghouse service engaged in both the collection and distribution, at no or low cost, of technical literature and other educational resource materials, including government documents, research papers, video tapes, brochures, and diagrams;

A toll-free telephone assistance and referral service providing access to engineers and other specialists;

A quarterly newsletter service, published at no cost to subscribers, that addresses such topics as the health effects of contaminated waters, small community assistance providers, small water system regulatory issues, and water system operation maintenance; and

A toll-free electronic bulletin board service that enables users to post questions and have those questions answered, as well as to read and comment on water-related topics.

In reading the bill and the committee's report, I would presume that a national center that provides such services would be eligible to receive funding under the grant program established in the bill. I would simply ask the manager of the bill if this is correct.

Mr. CHAFEE. The Senator is correct. Let me add that the concept of providing grants to regional centers that the Senator refers to is primarily intended to ensure that such centers are distributed throughout our Nation. It is not intended to limit the scope of assistance these centers can provide.

Mr. KEMPTHORNE. I would also add that the regional technology assistance centers are intended to be sited in areas that are representative of their region in regards to the water supply needs of small rural communities. In this respect, these centers are supposed to have expertise in the particular water supply problems associated with that region.

Mr. BAUCUS. The Senator from West Virginia is correct, however, in pointing out that the information these centers provide can also be national in scope. The access to this information, therefore, should not be limited to any particular State or region. In providing assistance on a national basis, these centers should coordinate their activities to minimize any duplication of effort and to maximize the utility of the information provided.

Mr. BYRD. I thank the managers of the bill for providing this clarification.

Mr. MOYNIHAN. Mr. President, I am pleased to join with my colleagues in support of the Safe Drinking Water Act. This bill represents a bipartisan effort which couples protection of public health and welfare with the flexibility necessary for cost-effective implementation.

The bill contains a number of provisions that are of particular interest to New York State. The components of the bill which provide for watershed protection directly impact the 9 million residents of New York City who rely on the Croton, Catskill, and Delaware watersheds to provide approximately 1.4 billion gallons of water each day. The State of New York recently announced the establishment of a partnership between New York City and the communities located within the watershed region. This agreement will effectively limit contamination of the water supply, preventing the need for a multibillion-dollar water filtration facility. The bill would authorize up to $15 million per year for 7 years to help fund the implementation and assessment of demonstration projects as part of the New York City Water Protection Program. Thus, the bill supports New York State's efforts to achieve prudent, cost-effective protection of the quality of New York City's drinking water.

A second provision will provide long-term benefits for the Great Lakes region by establishing a program to test chemical pollutants believed to cause so-called estrogenic effects in human populations. These effects may result in a variety of cancers—especially breast cancer—in addition to affecting the human reproductive system adversely. Pollutants which may be associated with these effects are known to accumulate in bodies of water and are pervasive in the Great Lakes System. The testing program sponsored by this provision will incorporate quality science and peer-review to allow the Administrator of EPA to identify such substances and take effective action to prevent human exposure.

Unfortunately, despite Senator CHAFEE'S valiant efforts today, it has become necessary to eliminate section 28 of the bill which, was reported unanimously out of committee. This section would have required the EPA Administrator to compare and rank various sources of pollution with respect to their relative degree of risk to human health and the environment, and evaluate the costs and benefits of existing regulations. I believe this analysis, which would have been included in a peer-reviewed report to the Congress, would have provided us with information critical to enhancing the effectiveness of the Nation's environmental programs.

I would point out that the requirement to conduct cost-benefit analyses and to evaluate the effectiveness of environmental legislation was first incorporated in the Clean Air Act amendments of 1990. I felt it was very important when passing the acid rain provisions of the Clean Air Act to evaluate their effectiveness, and requirements to conduct such an evaluation were incorporated in that law.

In any case, because of the importance of safe drinking water legislation, I urge my colleagues to join me in support of the Safe Drinking Water Act. I extend my sincere gratitude to Senator CHAFEE for his support of future consideration of the issue by the Environment and Public Works committee. I intend to work with him and other interested Members to secure passage of a bill authorizing these important studies. I have introduced legislation to achieve this end in the past three Congresses, and I look forward to the upcoming hearings on the measure.

ESTROGENIC SCREENING PROGRAM

Mr. D'AMATO. Mr. President, I want to commend and thank the managers of this bill for including in the manager's amendment package our amendment establishing an estrogenic chemicals screening program at EPA. This amendment is identical to an amendment that was adopted unanimously by the Senate when offered by my senior colleague from New York and myself during consideration of the Safe Drinking Water Act in the 103d Congress.

The amendment requires EPA to gather information that may prove essential in the war against breast cancer. Specifically, this amendment will require the EPA to develop and implement a testing program to identify pesticides and other chemicals that can cause estrogenic and other biological effects in humans, and to report their findings to Congress within 4 years.

This amendment is critical in view of growing evidence linking environmental chemicals that are capable of mimicking or blocking the action of the hormone estrogen to a host of developmental and reproductive abnormalities in wildlife and humans. The most alarming findings suggest a link between exposure to these chemicals and the dramatic increase in human breast cancer that has become so tragically apparent in our Nation over the past several decades.

In 1960, the chances of a woman developing breast cancer were 1 in 14. Today, they are one in eight. This year alone, breast cancer will strike an estimated 182,000 American women, and will take the lives of over 46,000. It has become the most common female cancer and the leading cause of death among American women between the ages of 35 and 54.

For years, researchers have understood that breast cancer is influenced by how much estrogen a woman produces. If you take the existing known risk factors—including early puberty, late menopause, delayed childbearing, or having no children at all—they have one thing in common: they all contribute to a high lifetime exposure to estrogen. There is clear evidence that the more estrogen a woman is exposed to in her lifetime, the higher her risk of developing breast cancer.

Recently, scientists have been taking a close look at the relation between so-called xeno-estrogens and increased breast cancer risk. It is theorized that these estrogenic materials—which include pesticides and other chemicals capable of affecting the internal production of the hormone estrogen—may hold the key to explaining some of the 70 percent of all breast cancer cases not associated with any of the existing known risk factors.

The research is compelling.

Perhaps the most startling findings are those of Dr. Mary Wolff of Mt. Sinai Medical Center, whose research involved the estrogenic chemicals PCB and DDE, which is a breakdown product of the pesticide DDT. Dr. Wolff tested the blood of 58 women with breast cancer and compared it to that of 171 women who were cancer-free, taking pains to ensure that the women were identical when it came to age, childbearing history, and every other characteristic known to influence breast cancer risk. She found that the women who had developed breast cancer had PCB levels in their blood that were 15 percent higher than the cancer-free women, and DDE levels that were 35 percent higher. She also discovered that as the level of DDE increased, so did the risk of developing breast cancer—to the extent that the women with the highest DDE levels were four times as likely to get breast cancer as those with the lowest levels.

A subsequent study by Canadian researchers, published on February 2, 1994, in the Journal of the National Cancer Institute, found a further link between DDE levels in breast tissue and the development of breast cancer.

In this case, higher DDE levels were associated with a higher risk for a particular-type of breast cancer which feeds on estrogen—a type of breast cancer which, according to researchers, has made up a larger and larger portion of the increase in breast cancer in recent years. In the words of the study's authors, ''this study supports the hypothesis that exposure to estrogenic organochlorine may affect the incidence of hormone-responsive breast cancer.''

The women of Long Island, NY, have long suspected a connection between the region's unusually high breast cancer rates and the exceptional concentrations of DDT and other potentially estrogenic pesticides that were once applied in an effort to rid former potato fields of a parasite known as the golden nematode.

Women who have grown up and raised families in residential subdivisions that were built on top of these abandoned potato fields have good reasons to be suspicious. Not least of these is the recent finding that if you are a woman and you have lived in Nassau County for more than 40 years, your risk of getting breast cancer is 72 percent greater than a woman of the same age who has lived in the county for less than 20 years.

The National Cancer Institute is now in the process of further examining the connection between breast cancer and xeno-estrogens as part of a comprehensive study into the causes of Long Island's high breast cancer rates. Their findings—expected within the next several years—will contribute greatly to our knowledge base about this important issue.

As we wait for the results of this and other studies, it is vital that we begin to systematically identify those pesticides and other compounds present in the environment that possess estrogenic properties. We must do this so we will be ready, should further research confirm a clear link between these substances and breast cancer, to take appropriate steps to protect the public.

This amendment will give us some of the information needed to begin taking these steps should they become necessary.

The amendment would require the EPA to utilize appropriate, scientifically validated test systems as part of a screening program to identify pesticides and other substances capable of altering estrogenic activity in the human body.

Several quick and inexpensive test systems have been developed in recent years which could potentially be utilized in such a screening program. Examples include tests developed by Dr. Ana M. Soto of Tufts University School of Medicine in Boston and Dr. Leon Bradlow of the Strang-Cornell Cancer Research Laboratory in New York, as well as a third test utilizing state-of-the-art biotechnology techniques described recently in Environmental Health Perspectives by Dr. John McLachlan of the National Institute of Environmental Health Sciences.

Because these tests are simple, inexpensive and quick, they are well suited for the kind of large-scale screening needed to identify potentially hazardous estrogenic compounds. Since reproduction requires complex interactions between hormones and cells in the intact body, the tests are not intended to replace existing animal testing models, but to complement them by quickly flagging suspect compounds which can then be targeted for additional testing or public health approaches.

Given the availability of these new techniques, I was shocked when I learned 2 years ago that EPA does not routinely screen pesticides for estrogenicity. I raised this concern in testimony before a joint hearing of House Subcommittee on Health and the Environment and the Senate Committee on Labor and Human Resources on September 21, 1993. In my testimony I called for a much more aggressive EPA response to the evidence which has been put forward linking estrogenic chemicals and breast cancer.

The EPA has now become more interested in this area—for which I commend and encourage them. But I would like to encourage them further by requiring them to undertake the kind of widespread screening program that our Nation's breast cancer epidemic demands, utilizing appropriate, scientifically validated testing techniques, coupled with a research program to understand the health risks associated with exposure to xenoestrogens.

This amendment would ensure that such a program is underway within 1 year, and would give the EPA Administrator a deadline of 2 years to implement a peer-reviewed plan, with a report to Congress due in 4 years detailing the program's findings and any recommendations for further action the administrator deems appropriate.

Mr. President, we simply cannot afford to wait until we have a smoking gun before we act to identify those chemicals in the environment that are estrogenic. Breast cancer is claiming the lives of women in this country at a rate of one death every 11 minutes. It would be unconscionable not to arm ourselves with crucial knowledge about chemicals that may be contributing to this scourge so that we can rapidly implement appropriate public health measures when scientific research indicates they are warranted.

Mr. President, this amendment will ensure that we are armed with this crucial information, and I again thank the managers for agreeing to accept this amendment.

PESTICIDE CHEMICAL SCREENING AMENDMENT

Mr. MOYNIHAN. Mr. President, would the Senator from New York yield for some questions regarding this amendment?

Mr. D'AMATO. Certainly.

Mr. MOYNIHAN. Given the concerns that reproductive effects in wildlife may be linked to endocrine disruption, some are concerned that the amendment is too limited because it focuses on human breast cancer. Does the amendment take a position on this issue?

Mr. D'AMATO. I recognize the concern that environmental estrogens and other hormone mimics may cause significant effects on nonhuman species. However, the top priority of this amendment is to learn more about substances that may lead to breast and other related forms of cancer in humans. It is silent about the possibility that effects may occur in other species and leaves that judgment to the Administrator.

Mr. MOYNIHAN. I have heard concerns raised about other endocrine and immune system impairments too. Does the discretion provided the Administrator under this amendment extend to health effects other than breast cancer?

Mr. D'AMATO. Yes. For example, if the Administrator so chose, she could include screening for male reproductive effects, effects to the immune system, and so forth. Would the Senator address a question about the scope of the amendment?

Mr. MOYNIHAN. Certainly.

Mr. D'AMATO. When the results of the screening study become available, subsection g(6) directs the Administrator to ''. . . take such action, including appropriate regulatory action by rule or by order under statutory authority available to the Administrator, as is necessary to ensure the protection of public health.'' Is the intent that the Administrator regulate all substances found positive in the study under the amendment?

Mr. MOYNIHAN. No. The testing called for in the amendment is a screening study to identify active and inert pesticide ingredients that mimic estrogens. It is a hazard identification process designed to identify the magnitude of the potential problem and to help set priorities for the future. As we learned from the experience with the Ames test for carcinogens in the 1970's and 1980's, hazard identification tests do not provide enough information to be the sole basis for regulatory action. Having said that, let me quickly note that the Administrator may have additional information about the exposure levels, or about the relationship between exposure and effect for certain of the substances to be tested such that she makes a risk management decision that regulatory action is needed. If, as a result of such evaluations, the Administrator finds a substance likely has a potential adverse effect in humans she must take appropriate regulatory action. The amendment gives her authority to do so through appropriate regulatory action under the Federal Insecticide, Fungicide and Rodenticide Act or the Toxic Substances Control Act or under other authority available to the Administrator.

Mr. D'AMATO. What happens once the screening study called for in this amendment is completed?

Mr. MOYNIHAN. The screening study will identify certain pesticide ingredients that mimic estrogens and perhaps other hormones. Consequently, people will be concerned, some very concerned, about their health. It is important to be realistic, honest and responsible throughout the design and conduct of this study so that we do not create undue apprehension, but it is also important to inform the public and to take action where significant hazards are identified.

Mr. D'AMATO. The Senator raises something that I feel very strongly about. Frankly, I am extremely worried about the health impacts associated with exposure to pesticides, and I am deeply concerned that they may lead to diseases such as breast cancer. At the same time I think that the women of Long Island and elsewhere have suffered enough anguish, and I do not want to scare people unnecessarily.

Mr. MOYNIHAN. The Senator raises an extremely important issue—how best to determine whether pesticides, a widespread class of environmental chemicals, pose a potential risk without creating unwarranted public concern. An important part of this process should be a risk communication strategy to identify the likely outcomes, and to keep the public informed and aware of the purpose of the study, including its strengths and limitations. It is important not to over promise and raise false expectations.

Turning to another issue, could the Senator elaborate on what is intended by the exemption described in subsection g(4)?

Mr. D'AMATO. Of course. While it is our intent to require broad screening of active and inert pesticide ingredients, we recognize that there are biologic substances, and perhaps other substances, that the Secretary will find do not warrant testing because she concludes that they do not mimic estrogen in humans. Subsection g(4) would allow her to exempt such substances from the screening program called for under this amendment. We expect the Secretary to rely upon the best available scientific information in identifying substances to be exempted.

Would the Senator like to comment on why the amendment requires that the testing requirements and communication strategies be reviewed by the Science Advisory Panel and Science Advisory Board, and any other review group the Administrator deems appropriate before finalizing the requirements.

Mr. MOYNIHAN. Yes, certainly. It is because we are just coming to learn that certain environmental pollutants mimic naturally occurring hormones and that they may contribute to breast cancer, reproductive failure, and other diseases. There is no consensus about the magnitude and nature of the problem, and so it will be controversial, with those on opposite sides of the issue voicing strong opinions. It is our intent that EPA be as responsible and credible as it can be. This means that the Administrator should work with expert scientists from government, academia, industry, and the public health sector to select criteria for what constitutes a validated test, to select the set of validated tests to be used, and to design the protocols for study. She may wish to engage organizations such as the National Academy of Sciences or other appropriate independent scientific organizations for assistance.

Similarly, when the study is completed, the report to Congress required under subsection g(7) should reflect guidance from the scientific community, summarizing the findings of the screening study, and recommending followup actions, as necessary.

Mr. D'AMATO. Could the Senator discuss the potential followup actions that might be recommended?

Mr. MOYNIHAN. Obviously, that depends on the outcome of the screening program. If only a few substances screen positive, the followup might include conducting more detailed tests on each substance that tests positive; if a number are positive, however, priorities must be set to identify those chemicals of greatest concern for which dose-response relationships are needed. Though we may wish it were not so, we simply cannot do everything at once.

The criteria for setting priorities may well be to select those chemicals found most often in the environment and in the highest concentrations, those that are most active or that bioaccumulate, those for which there are testable hypotheses for action, and those which are representative of specific categories of chemicals. The goal is to develop plausible biologically-based risk-assessment models for use by EPA and others to inform their risk management decisions.

Mr. D'AMATO. Does the Senator know just what kinds of follow-up studies will likely need to be conducted and how much they will cost?

Mr. MOYNIHAN. The amendment is silent on exactly what additional studies to require after the screening study because we want to benefit from the screening results and from EPA's guidance before deciding what, if anything, to do next. The determination about how much science is needed before making a regulatory decision is a policy call. There will never be enough information to unambiguously answer every question about environmental safety. When the EPA makes its report to Congress it would be appropriate to examine just how much science is recommended by EPA to resolve this issue, how much additional research or action beyond that initiated by EPA would cost, and how much Congress thinks is appropriate to pay.

Mr. DOLE. Mr. President, the Senate today is considering legislation that is of primary importance to every home in America. Every individual, every family, and every community is directly affected by the quality of their drinking water. Perhaps in no other area do we need to provide assurances of adequate protection to public health than in drinking water. This legislation enhances important public health priorities by using sound science and appropriate treatment and testing technologies.

As a cosponsor of the legislation, I would like to commend Senator KEMPTHORNE and Senator CHAFEE for what turned out to be a year-long debate over the specifics of this bill. It is, as others have pointed out, compromise legislation. I am disappointed that some sections of the bill are not stronger. However, this legislation sets important new directions for Federal policy by providing States and local governments with a much stronger say in dealing with their own particular drinking water issues. Specifically, the new variance section provided to small systems will be of significant assistance in addressing the economic constraints on many of these smaller communities. It is important to note that States decide the affordability criteria, making these decisions closer to home.

I am pleased that the standard setting section of the bill includes a requirement that EPA conduct a cost benefit analysis of alternative standards. However, this legislation specifically states only that it allows EPA to consider cost and benefits to set new standards; EPA is not clearly required to use that analysis to ensure that benefits justify costs.

During the regulatory reform debate, we heard from representatives of the administration that such reform was unnecessary. If there were problems with individual statutes—like the current safe drinking water law—they should be addressed individually, statute by statute. We were told that the President's executive order currently calls cost-benefit analysis and is used to make sure that benefits outweigh costs.

Therefore, passage of this Safe Drinking Water Act sets forth an important test for EPA. Let's see how this bill is implemented. If the administration actually conducts cost-benefit analysis and uses the results, this will go a long way toward passing the test. This statute, by allowing EPA the flexibility to conduct a cost-benefit test, will determine how serious it is about meeting this goal.

In this regard, I am disappointed that the cost benefit language is not available for use in the disinfection byproducts rule. I understand that this was a closely negotiated compromise among the various parties associated with this bill. While I respect the compromises that have been made, I do not believe that the unfortunate results of codifying this proposed rule should be overlooked. EPA has received letters of concern from many communities, including Kansas communities, who are worried about the impact of this rule. It is ironic that this legislation seeks

to provide more flexibility for States by providing variances to small communities. Yet on this particular issue, EPA will continue to have the final say. I am concerned that the legislation before us essentially codifies a proposed rule which is extremely expensive and ignores sound science and the potentially adverse substitute risks that could result from overregulation of disinfection byproducts.

Taking into consideration these concerns, I will support this bill. A strong bipartisan effort has been made and there is support of the compromises that were achieved in this bill. A great deal of work has gone into this legislation. I look forward to further discussions on this bill and how we can move forward to assure the quality of our Nation's drinking water.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mr. COATS). Without objection, it is so ordered.

Mr. CONRAD. Mr. President, I rise today in support of S. 1316, the Safe Drinking Water Act Amendments of 1995, introduced by the Senator from Idaho, Senator KEMPTHORNE. I am pleased to be an original cosponsor of this important legislation. The bill introduced by the distinguished chairman of the Subcommittee on Drinking Water, Fisheries, and Wildlife will provide the Nation with a more workable, rational, and flexible law that reduces the burdens placed on small, rural water systems while protecting public health and assuring a safe supply of drinking water.

The Safe Drinking Water Act has been one of the most frequently mentioned examples of an unfunded mandate on America's small towns, and justifiably so. The Congressional Budget Office recently released a report entitled ''The Safe Drinking Water Act: A Case Study of an Unfunded Federal Mandate.'' Mr. President, that report documents what many of us already knew about the current law. It is especially burdensome on small water systems, such as most of the systems in my State. The CBO report states, ''Households served by small water systems are particularly likely to face high costs. Furthermore, compliance costs could increase significantly over time.''

Mr. President, it would be one thing if those costs were justified by a need for safety. But many of these costs have little or nothing to do with safety. In fact, they are regulation for regulation's sake.

The Safe Drinking Water Act has also been roundly criticized as unnecessarily inflexible. The CBO report also addressed the flexibility concern, indicating that there are significant barriers to adequately using the flexibility provisions in the existing law. Mr. President, we can instill flexibility for our small communities into the Safe Drinking Water Act, and still ensure that our constituents are drinking safe, clean water. I believe the bill before us today inserts some much-needed common sense into the law, and frankly Mr. President, it is long overdue.

But the current law is inflexible in other, unnecessary ways as well. For example, the current statute requires that EPA regulate 25 new contaminants every 3 years, regardless of the overall risk posed by these contaminants. Mr. President, that is absurd. That is unnecessary. That is regulation for regulations sake, and it should be stopped.

The bill before us repeals the requirement that the EPA regulate 25 new contaminants every 3 years. Instead, the bill takes a flexible approach that requires the Administrator of EPA to develop a list of high-priority contaminants, and make regulatory decisions about at least five of those contaminants every 5 years. The bill does not mandate that EPA regulate additional contaminants on an arbitrary and costly schedule. This legislation takes the commonsense approach that says the EPA must analyze possible threats to public health. If no new threat exists, no regulation is necessary. This provision lets EPA consider risk, rather than simply imposing additional costs on water systems that may or may not increase protection of public health.

The bill introduced yesterday includes a number of important provisions to address the shortcomings of the existing Safe Drinking Water Act. In addition to addressing the flexibility question, it authorizes a State revolving fund to give States funding to make grants or loans to water systems to help them comply with the Safe Drinking Water Act. In fact, the conference report for the fiscal year 1996 VA, HUD, and independent agencies appropriations bill provides $275 million for this SRF, providing we reauthorize the bill. While I would have preferred to see more resources go to this vital SRF, this funding is essential to small water systems to help them upgrade drinking water treatment systems, replace wells that provide unsafe drinking water, develop alternative sources of water, and comply with drinking water regulations. This funding will also help provide important technical assistance to local communities.

Let me just say that the local communities have told me over and over how valuable that technical assistance is. I am pleased to say it is part of this new legislation.

The State Revolving Fund is absolutely essential to our small communities so that they can adequately protect the health of the American public. The bill before us today gives a great deal of flexibility to small water systems so they can provide safe and affordable drinking water to their consumers. It gives States flexibility to reduce monitoring for contaminants that do not occur in their water system. That just makes common sense. States can also approve alternative treatment plans for small systems, taking into account affordability, without compromising the safety of the drinking water supplies.

Last year, this body passed a balanced, flexible and workable bill to reform the Safe Drinking Water Act. I supported that bill. I was proud to do so. Unfortunately, we simply ran out of time at the end of the session before a conference committee could reconcile the differences between the House and Senate versions of the bill. I was extremely disappointed we could not pass a final version last year.

I wish to applaud Senator KEMPTHORNE for the significant effort he has put forward to craft a reasonable and responsible bill, and I commend him for his willingness to work with our colleagues on both sides of the aisle in drafting this legislation.

Many people from State health department officials to managers of small rural water systems in my State have told me they believe this bill is even better than the bill we were addressing last year. I am proud to join the majority leader, the minority leader, the chairman and ranking members of the Environment Committee and the drinking water subcommittee in sponsoring this important piece of legislation.

What could be more clear than the current legislation, the Safe Drinking Water Act, needs to be reformed. It is my hope that this bill will lead to the kind of flexible, workable solutions that have been needed for years. I urge my colleagues to support this commonsense legislation, and I urge our colleagues in the House to quickly turn to reforming the Safe Drinking Water Act. We cannot afford to let this opportunity slip away again during this session of Congress.

I thank the Chair, and I especially thank my colleague from Idaho for really an excellent job in putting this legislation together.

I yield the floor.

Mr. KEMPTHORNE addressed the Chair.

The PRESIDING OFFICER (Mr. CRAIG). The Senator from Idaho.

Mr. KEMPTHORNE. Mr. President, let me thank my colleague from North Dakota for the comments he has made in his statement. I greatly appreciate both the tone and the spirit and the points the Senator raised. I agree with the Senator. The existing Safe Drinking Water Act needs a healthy dose of common sense, as the Senator points out, and I believe that this bill, S. 1316, provides that common sense. That is why I believe we have the support of the Governors, the mayors, and the county commissioners of the Nation supporting us in this legislation. I am

proud that the Senator is a cosponsor of this legislation.

The Senator also pointed out with regard to the funds—and the Senator is correct—that up until the passage of this bill, which we are looking forward to, we have never provided the funds to the communities, to the water systems, and ironically we have had the situation where the appropriators have appropriated the money but it has never been authorized. For the first time, we will authorize the funds and use them where they ought to be on a priority basis to help our communities ensure that we not only continue to have safe drinking water but it will improve the public health of this country, plus the technical assistance that the Senator pointed out to the small communities. They have, as we all do, such finite resources, and yet they want to comply and they want to ensure that their constituents or the customers that they are serving get the standards to the greatest extent possible. We provide the technical assistance to do so.

Another point that I would just mention is source water protection. I think we owe a great deal of credit to our agricultural organizations throughout the country that really have come forward and said we are going to support you in this because, again, in the previous Safe Drinking Water Acts we never addressed source water protection.

So what is this source water protection? Again, it is common sense, as the Senator from North Dakota has pointed out, that is, if you can keep water upstream from being contaminated so that you do not then have to wait until it is downstream and then treat all of the contamination so that people can then drink it. It is a lot cheaper to go ahead upstream and put in a few little amenities that may prevent the contamination than to just simply turn your back on it and say, well, we will wait and see what happens down here. But it is voluntary.

And so again, it is a progressive step forward, but we have all of the stakeholders upstream saying, wonderful; we will be willing partners in making this happen.

I believe this legislation, which is very much bipartisan, shows that you can be creative and innovative in protecting the environment but doing it at the most economically feasible level. We say in this legislation just because you can do something technologically does not mean it will be justifiable. Now we have cost-benefit.

So, again, I thank the Senator from North Dakota. It has been a pleasure to work with the Senator on this legislation.

Mr. CONRAD addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. I again thank my colleague from Idaho. It has been a pleasure to work with him. He has been open-minded and absolutely fair with respect to listening to both sides on this matter, and I really have appreciated the way he has addressed this matter.

I can remember so well going to a meeting of county commissioners and mayors in my State, and them saying to me, you know, it is nuts; we are being asked to test for things that have never been present in our system for 20 years. We have had testing for 20 years. We have never had this contaminant show up, and we keep having to do tests that may cost us $20 or $40 a test every month.

When you are talking Washington talk, $20 or $40 a month does not sound like very much, but if you have towns such as we have in North Dakota, we have four of them incorporated that have 10 people or less and when you are talking about $20 or $40 a test on things that are totally unnecessary that may have to be done on a quarterly or monthly basis, it mounts up and it becomes an absurdity.

So again, I think it is absolutely time that this job gets done. I again wish to thank my colleague from Idaho for the job he has done.

I thank the Chair and yield the floor. I note the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum has been noted. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mr. COATS). Without objection, it is so ordered.

Mr. EXON. Mr. President, I rise today in support of the Safe Drinking Water Amendments Act of 1995. I am particularly pleased to see this legislation come before the Senate after the disappointment of last year when we were unable to come to an agreement.

I have been involved in this debate for a long time. Back in January of this year I wrote a letter to the chairman of the Environment and Public Works Committee, Senator CHAFEE, urging the Senator to focus the committee's attention once again on this important piece of legislation. I thought we had a good bill last year. But, Mr. President, I believe this year's bill is even better. And I thank Senator CHAFEE and others associated with him for their efforts.

This year we are able to craft a bipartisan bill which improves our Nation's drinking water law in several important and meaningful ways. Communities throughout the United States, including many in Nebraska, have had a difficult time complying with current law. As we all know, unnecessary and heavy-handed mandates have cost our Nation, especially the small communities, very dearly.

This bill recognizes that the needs of small communities are different from those of large communities. The bill combines flexibility with a good dose of common sense by allowing smaller communities to find the best way to protect their water quality.

This bill gives new authority to the States in determining what contaminants pose the greatest risk to their communities and empowers States to direct their resources toward monitoring those contaminants rather than those that pose a trivial risk to their communities, removes excessive Federal regulation and keeps our Nation's drinking water safe.

I am proud of the work that Senator KERREY and I and others have done on this legislation. I believe that the bill that we have crafted strikes a fair balance by recognizing the need to protect our drinking water but also allowing States flexibility in determining how best to protect this valuable and very vital resource.

Mr. President, in closing, I wish to emphasize once again my thanks for the leadership of Senator CHAFEE and others associated with him on the committee for their very successful job. And I hope that the Safe Drinking Water Amendments Act of 1995 will shortly become the law of the land. I thank the Chair and I yield the floor.

Mr. KEMPTHORNE addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. KEMPTHORNE. Mr. President, I thank the Senator from Nebraska for his comments. I know that from his perspective, as a former Governor, a Governor from the great State of Nebraska, he realizes the need for State flexibility, and by granting that flexibility and authority to the States, that not all wisdom resides in Washington, DC, but that we happen to have 50 Governors throughout this country who really can make decisions that are tailored to the needs of their respective States in conjunction with their legislatures and the agencies they have set up in place.

And, too, Senator EXON referenced Senator KERREY, whom I also want to applaud for his efforts, because really he was a catalyst toward assuring that this particular legislation would be bipartisan, as it should be. So, again, the team from Nebraska served well, and I appreciate it. It is a joy to work with the Senator.

Mr. EXON. Mr. President, I thank very much my colleague from Idaho. I thank him for his keen perception in this whole area. I was very proud to follow his leadership earlier this year in the mandates area where we had required that of States for far too long. But I know that he has played a very keen part in crafting this measure, which I think is fair and reasonable, workable, and eliminates much of the consternation and expense, in many cases unnecessarily expensive procedures. So I thank him and the full committee for the excellent job they did. It was a pleasure working with the Senator.

Mr. KEMPTHORNE. Mr. President, I ask unanimous consent that Senator

SNOWE of Maine be added as a cosponsor to the legislation.

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

Mr. KEMPTHORNE. Mr. President, I yield the floor.

Mr. LAUTENBERG addressed the Chair.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. LAUTENBERG. Mr. President, I thank the Chair. I rise in support of this legislation to authorize the Safe Drinking Water Act. I want to commend my colleague and my friend from Idaho for his hard work on this, and to express at the same time my appreciation to the chairman of the Environment and Public Works Committee, on which we both serve, Senator CHAFEE, for the open process that he and Senator KEMPTHORNE established for drafting this bill.

It has not been a lightning experience, though it has been an enlightening experience. I say it has not been lightning because it has taken a fair amount of time to get this to this point. As a matter of fact, the committee has been meeting since February, both Democrats and Republicans, to try to get this legislation into shape so that it could meet the bipartisan test and pass. They have been meeting almost constantly over the year, and into September and October, to reach the consensus that exists now on this legislation.

The process has produced a bill that, though imperfect, does substantially improve the Safe Drinking Water Act. When I say, ''though imperfect,'' I do not remember a time when there was a bill that involved a complicated process that had been produced here that was perfect. There is always a point of view that something could be better. It was often said by a former majority leader, George Mitchell, that the perfect is the enemy of the good. And what we have is we have a good bill.

This committee, Mr. President, the Environment and Public Works Committee, has a good history of working in a bipartisan fashion. The environmental legislation has been a joint enterprise, going back to at least 1969. This bipartisanship continued when Democrats chaired the committee from 1969 to 1980 and then through Senator Robert Stafford's tenure as chairman in the early 1980's. That spirit continues today, as demonstrated by this bill.

The legacy of this process has been a system of environmental protection that, frankly, is a model for the industrial world. More importantly, the process has led to cleaner water, cleaner air, and a safer disposal of waste. It has led to a better world. But that should not be surprising.

There has been strong bipartisan support across the country for effective environmental standards. Poll after poll shows support not only for EPA but for toughening of standards to protect the air, the water and our land. Although some special interests have taken the recent election results as a repudiation of the environment agenda over the last 25 years, I hope that this bill demonstrates that we, in a bipartisan fashion, can make progress, evidenced by this joint, bipartisan commitment to protect our environment.

Time will tell if an optimistic view will prevail when Congress deals with other environmental issues.

Mr. President, in any compromise, especially in this second generation of environmental statutes, agreement does not please everyone. Reaching a consensus requires both sides to accept provisions that they would rather not have. There are provisions in this bill that I would like to strengthen and I am sure others might want to weaken. However, the overall view is that this is a good bill.

It is critical to ensure that drinking water is safe. Guaranteeing that safety is an important responsibility of Government, and it cannot be delegated entirely to the States or to the private market. At the same time, some State and local flexibility is essential to ensure efficient regulation. This legislation seeks to strike a balance between the critical need to guarantee public safety and the need to provide for reasonable regulatory flexibility. Once again, not a perfect balance, but a definite improvement over current law.

For example, we have attempted to add additional cost-benefit and risk-assessment tests before we regulate chemical contaminants. These tests will apply to arsenic and sulfates and chlorinated byproducts. They are a reasonable compromise between provisions in the regulatory reform proposal and present law.

As we debate this legislation, it is important to do what we can to strengthen public confidence in the water supply. Unfortunately, Americans now have little confidence in the safety of their drinking water. They worry about it, for their families. That is one of the reasons why 42 million Americans, one out of six, regularly drink bottled water. When I was a child, Mr. President—it was not a century ago, I assure you—I never heard of anybody drinking bottled water. Seltzer water or soda water, or something like that, but plain old bottled water? Never heard of it and never had the money for it even if we had heard of it.

In the Washington area, Safeway or Giant Food stores, generic bottled water—and I am not talking about the highly advertised designer shaped bottles—in these places, water costs about $1.35 a gallon. It is 1,000 percent more than tap water—1,000 percent.

Despite these high costs, sales of nonsparkling bottled water increased 100 percent between 1986 and 1994. To be sure, some people drink bottled water because of the notion it provides. It is kind of a cachet of things that people do, but many simply do not trust local water supplies and are willing to pay a stiff premium for alternatives to tap water.

I personally believe that the tap water provided by public and private systems in New Jersey, my State, are safe. But given the widespread distrust of our water supplies, it is essential that in our deregulatory zeal, we do not further undermine public confidence in tap water.

This bill should move us closer to the goal of safe, drinkable water at affordable prices. I have been pleased to cosponsor the bill, and I urge its support.

I add, Mr. President, that an amendment of mine that is included in the bill is there to guarantee the safety of bottled water, because this amendment requires that bottled water meet the same safety standards set for tap water.

There is an anomaly out there that tap water is tested rather rigorously, and water that is paid for out of one's pocket has not had the same requirements. We want to make them the same. People ought to know simply because it is in a bottle and thought to be pure that there should be a test that applies to this water.

The amendment is supported by the International Bottled Water Association, and it will assure consumers that bottled water is at least as safe as the water they receive at the tap. The public needs to know that all their drinking water is safe, whether it comes out of the tap or out of a bottle.

So, Mr. President, I am supporting this bill and reserve, however, the right to change my mind if there are amendments offered that do not have direct relationship to the Safe Drinking Water Act changes as we propose them. We have heard other subjects being discussed on the floor, and I hope they will not be offered as amendments to this bill.

Barring that, I am 100 percent behind it and will do whatever I can to help make it turn into law.

Once again, I thank my colleague from Idaho for his good, hard work which he continually shows in the committee and on the floor. We try to get things done, as I suggested earlier, in a bipartisan manner. It always is easier when we do, Mr. President. There are a few things that are on tap, to use the expression, a few things that we are working on in the Environment and Public Works Committee that I hope we will be able to use this effort as a model to move along. I have particular interest in Superfund and some other environmental legislation, and we just need to get together to make it happen.

With that, Mr. President, I yield the floor.

Mr. KEMPTHORNE addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. KEMPTHORNE. Mr. President, I thank the Senator from New Jersey for his comments. I appreciate so much working with Senator LAUTENBERG on the committee. I appreciate his cosponsorship of this legislation.

He has pointed out something that I agree with, and that is, oftentimes, while the motive may have been pure, you have regulations or legislation that is nonworkable, that is difficult to achieve, and so we have, again, turned our efforts toward establishing a dose of common sense in this legislation.

As the Senator from New Jersey said, there are probably amendments he would like to offer that he would feel would strengthen the bill, and there are others who would offer amendments that would weaken the bill.

The interesting thing is, his amendment he would determine as strengthening and I would determine as actually weakening, and vice versa.

So I think we have found that good balance in this legislation, that while reducing the cost to the States and cities, we are increasing public health. Just because we have the technology to do something and it is technologically feasible, does not necessarily mean it is justifiable to require the States and cities to do.

So we do have in this environmental legislation cost-benefit analysis that is in place. So, again, I have appreciated working with the Senator from New Jersey. I thank him for his comments this afternoon. In this fashion, I believe this legislation is going to move forward.

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

The PRESIDING OFFICER (Mr. GORTON). The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. CHAFEE. 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. CHAFEE. Mr. President, we have two items that have been cleared, and that can now be adopted.

AMENDMENT NO. 3071

(Purpose: To authorize additional criteria for alternatives to filtration)

Mr. CHAFEE. Mr. President, the first item was brought to our attention by the Presiding Officer, Senator GORTON, and Senator MURRAY. The Safe Drinking Water Act requires filtration for most drinking water systems that are served by surface water. But some cities have made extraordinary efforts to protect their watersheds from development that might contribute to contamination. One such city is Seattle, WA. That city owns virtually all of the land around its reservoir. This amendment recognizes the efforts made by the city of Seattle and allows Seattle, in cooperation with the State of Washington, to employ treatment approaches in lieu of filtration that will be more cost effective.

So, Mr. President, I send on behalf of myself and both Senators from Washington a printed amendment, and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Rhode Island (Mr. CHAFEE), for himself, Mr. GORTON, Mrs. MURRAY, Mr. KEMPTHORNE, Mr. BAUCUS, and Mr. REID, proposes an amendment numbered 3071.

Mr. CHAFEE. 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 64, after line 5, insert the following:

''(a) FILTRATION CRITERIA.—Section 1412(b)(7)(C)(i) is amended by adding at the end thereof the following: ''Not later than 18 months after the date of enactment of the Safe Drinking Water Act Amendments of 1995, the Administrator shall amend the criteria issued under this clause to provide that a State exercising primary enforcement responsibility for public water systems may, on a case-by-case basis, establish treatment requirements as an alternative to filtration in the case of systems having uninhabited, undeveloped watersheds in consolidated ownership, and having control over access to, and activities in, those watersheds, if the State determines (and the Administrator concurs) that the quality of the source water and the alternative treatment requirements established by the State ensure significantly greater removal efficiencies of pathogenic organisms for which national primary drinking water regulations have been promulgated or that are of public health concern than would be achieved by the combination of filtration and chlorine disinfection (in compliance with this paragraph and paragraph (8)).''.

On page 64, line 6, strike ''(a)'' and insert ''(b)''.

On page 64, line 21, strike ''(b)'' and insert ''(c)''.

● Mr. GORTON. Mr. President, I am happy to support S. 1316, amendments to the Safe Drinking Water Act. This legislation will go a long way to help small and large water systems in my State to provide safe, clean, and affordable drinking water to their customers.

Last year, the Senate considered legislation to amend the Safe Drinking Water Act. I was a strong supporter of that legislation, which, unfortunately, never made it to the President's desk. The bill before the Senate today improves upon last year's legislation, and I am proud to support the committee's legislation once again.

Over the past several years I have heard from small and large water systems in my State urging Congress to amend the current law in order to break free of the one-size-fits-all approach of current law. The legislation before the Senate today accomplishes this goal. Washington State ranks fifth in the Nation in the number of small public water systems, and, as a result, the mandates of current law are especially burdensome on my State's small systems. For many of my State's small communities the price tag associated with filtration costs is incomprehensible. These communities simply cannot afford this costly technology.

The legislation before us today ensures that small systems will be better able to provide safe drinking water to their customers. The bill directs the Administrator to identify a range of technologies for a range of small systems. The legislation recognizes that small systems have unique needs and cannot afford the costly technology that is affordable for larger systems. In addition, many of my State's small system operators have told me that monitoring compliance was one of the most costly aspects of the current law. By giving States with primary enforcement responsibility the opportunity to establish their own monitoring requirements, this legislation eliminates another costly burden for small systems.

The legislation also makes a critical improvement over existing law on standard setting. The bill establishes that maximum contaminant level goals [MCLG] for contaminants that are known or likely to cause cancer in humans may be set at a level other than zero, if the Administrator determines based upon available, peer-reviewed science, that there is a threshold level below which there is unlikely to be any increase in cancer risk and the Administrator sets the MCLG at that level with an adequate margin of safety. MCLG's for carcinogens—elements known to cause cancer—are set at zero under current law. Many in the scientific community believe that this number has been set arbitrarily. The setting of the standard at zero is the equivalent of the Delany clause for drinking water contaminants. Many communities in my State have argued that a MCLG set at zero is an ineffective use of funds, and results in a great deal of effort expended, in many cases, for a marginal reduction in the likelihood of cancer. By granting the Administrator the flexibility to establish a MCLG at a level other than zero, S. 1316 makes a good improvement to existing law.

Mr. President, I would also like to thank the chairman and ranking member of the Environment and Public Works Committee, and their staff, for accepting an amendment to the bill offered by this Senator and the junior Senator from Washington. The amendment establishes a limited alternative to filtration, if the system can utilize another form of treatment that will provide a significantly greater removal of pathogens, than that of filtration.

The need for this amendment was brought to my attention by the city of Seattle. The city has two water supply sources, the Cedar River Watershed, and the Tolt River supply. Because of turbidity problems in the Tolt supply, the city is in the process of implementing filtration technology on the Tolt. Conversely, the Cedar River supply does not have turbidity problems—it consistently tests below average for turbidity—and the city is seeking an alternative to filtration for the Cedar River supply.

Currently the Cedar is an unfiltered system, and therefore must comply with the surface water treatment rule. The rule sets forward 11 specific criteria, and calls for extensive monitoring of the system, to ensure that the

system continues to provide clean water to its customers. During 1992, the Cedar violated 1 of the 11 criteria, and, consequently, was required to initiate filtration plans. Shortly thereafter the city entered into an agreement with the State and EPA region 10 to achieve compliance with the rule without filtration.

Seattle has been working closely with EPA region 10 and the Washington State Health Department for the past several years to find a way to treat the Cedar supply, without filtration. Filtration would cost the city roughly $200 million, but the city believes that the process of ozonation would better meet the city's drinking water needs. The ozonation process would only cost $68 million. Ozonation is a process that is considerably less expensive than filtration and is believed to be the next up and coming technology for ensuring clean drinking water.

The ozonation process is proven to be more effective than filtration in getting rid of harmful pathogens in a water supply, like cryptosporidium and giardia. Filtration technology would inactivate 99.9 percent of cryptosporidium, but ozonation would inactivate 99.999 percent of the cryptosporidium. The increase of .099 is considered a significant increase in the level of human health protection.

The city of Seattle—together with mayors from Tacoma, Redmond, Bothell, and Bellevue—support the amendment because the majority of their communities are served by the Seattle water system. On behalf of the Puget Sound residents served by the city of Seattle's water supply, I would like to thank Senators CHAFEE and BAUCUS, and their staff, for working on this amendment.

I urge my colleagues to support the committee's bill, and this Senator hopes that we can get legislation to the President's desk for his signature this year.●

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the amendment of the Senator from Washington.

The amendment (No. 3071) was agreed to.

Mr. CHAFEE. Mr. President, I move to reconsider the vote by which the amendment was agreed to, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. CHAFEE. Mr. President, I have a request from Senator SNOWE that she be added as a cosponsor of S. 1316 and as a cosponsor of the managers' amendment to S. 1316.

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

Mr. CHAFEE. Mr. President, I ask that Senator GORTON also be added as cosponsor of S. 1316 and the managers' amendment thereto.

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

AMENDMENT NO. 3072

(Purpose: To authorize grants for wastewater treatment and drinking water supply to communities commonly referred to as colonias)

Mr. CHAFEE. Mr. President, on behalf of myself and Senators DOMENICI, KEMPTHORNE, BAUCUS, and REID, 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 Rhode Island (Mr. CHAFEE), for himself, Mr. KEMPTHORNE, Mr. BAUCUS, Mr. DOMENICI, and Mr. REID, proposes an amendment numbered 3072.

On page 195, after line 20, insert the following: ''(h) ASSISTANCE TO COLONIAS.—

''(1) DEFINITIONS.—As used in this subsection—

''(A) ELIGIBLE COMMUNITY.—The term 'eligible community' means a low-income community with economic hardship that—

''(i) is commonly referred to as a colonia;

''(ii) is located along the United States-Mexico border (generally in an unincorporated area); and

''(iii) lacks basic sanitation facilities such as a safe drinking water supply, household plumbing, and a proper sewage disposal system.

''(B) BORDER STATE.—The term 'border State' means Arizona, California, New Mexico and Texas.

''(C) TREATMENT WORKS.—The term 'treatment works' has the meaning provided in section 212(2) of the Federal Water Pollution Control Act (33 U.S.C. 1292(2)).

''(2) GRANTS TO ALLEVIATE HEALTH RISKS.—The Administrator of the environmental Protection Agency and the heads of other appropriate Federal agencies are authorized to award grants to any appropriate entity or border State to provide assistance to eligible communities for—

''(A) the conservation, development, use and control (including the extension or improvement of a water distribution system) of water for the purpose of supplying drinking water; and

''(B) the construction or improvement of sewers and treatment works for wastewater treatment.

''(3) USE OF FUNDS.—Each grant awarded pursuant to paragraph (2) shall be used to provide assistance to one or more eligible community with respect to which the residents are subject to a significant health risk (as determined by the Administrator or the head of the Federal agency making the grant) attributable to the lack of access to an adequate and affordable drinking water supply system or treatment works for wastewater.

''(4) OPERATION AND MAINTENANCE.—The Administrator and the heads of other appropriate Federal agencies, other entities or border States are authorized to use funds appropriated pursuant to this subsection to operate and maintain a treatment works or other project that is constructed with funds made available pursuant to this subsection.

''(5) PLANS AND SPECIFICATIONS.—Each treatment works or other project that is funded by a grant awarded pursuant to this subsection shall be constructed in accordance with plans and specifications approved by the Administrator, the head of the Federal agency making the grant, or the border State in which the eligible community is located. The standards for construction applicable to a treatment works or other project eligible for assistance under title II of the Federal Water Pollution Control Act (33 U.S.C. 1281 et seq.) shall apply to the construction of a treatment works or project under this subsection in the same manner as the standards apply under such title.

''(6) AUTHORIZATION OF APPROPRIATIONS.—there are authorized to be appropriated to carry out this subsection such sums as may be necessary for fiscal years 1996 through 2003.''.

Mr. CHAFEE. Mr. President, this is an amendment that has been cleared by both sides. As you understood from the reading of it, it deals with those very low-income settlements along the United States side of the United States-Mexican border, and it is of particular concern to the senior Senator from New Mexico, and I am sure for the junior Senator from New Mexico likewise.

Mr. DOMENICI. Mr. President, I rise in strong support of S. 1316, the Safe Drinking Water Act Amendments of 1995. I am proud to be an original cosponsor of this outstanding, broadly bipartisan bill.

Mr. President, I have long been involved in the drinking water debate, having introduced a reform bill of my own last session. Coming from a predominantly rural State, one of my biggest concerns with the current Safe Drinking Water Act is the fact that the overwhelming majority of small rural water systems simply do not have the economic or technical capability to comply with the act as it now exists. Senator KEMPTHORNE'S bill goes very far in addressing this problem by giving States the flexibility to grant variances for small water systems.

In addition, I am very happy to see that Senator KEMPTHORNE'S bill requires EPA to use the best available, peer-reviewed science in implementing the act. I worked hard to get this commonsense provision put into last session's reauthorization effort, and I am glad it has been retained in this session's bill.

I would like to take a few moments to discuss an issue of particular importance to me, and that is the issue of colonias. Mr. President, for those who do not speak Spanish or come from the Southwest, colonia is the Spanish word for neighborhood. Traditionally, in my State of New Mexico and throughout the Southwest, colonias referred to long-established, unincorporated small towns with rich community heritages.

Over the past decade, colonias have also come to refer to densely populated, poverty-stricken communities that have sprung up along the border in the past 10 to 15 years. They are often populated primarily by Mexican-Americans and legal immigrants working as seasonal farm laborers. These are decent, honest, hardworking people trying their best to create a good life for themselves and their families. The tragedy of these new colonias, however, is that they are typified by desperate poverty, by severe overcrowding, by inadequate housing, by pathetic roads, and, most important for purposes of the bill before us, by nonexistent drinking and waste water services.

Mr. President, I would like to read a few passages from an article that appeared earlier this year in one of my State's newspapers, the Las Cruces Sun News. Las Cruces is the largest city in Dona Ana County, a county with a large number of colonias. The article, written by Deborah Baker of the Associated Press, is titled ''Colonias: The American dream is more of a nightmare for many State residents.'' Mr. President, the passages I would like to read, which could apply to most of the new colonias dotting our Nation's southwestern border, describe the appalling conditions under which these people live every day:

> The American dream lives on a trash-strewn hillside at the end of a rutted road in a cluster of trailer and shacks called El Milagro—''The Miracle.''
>
> There, two families share three rooms: a two-room trailer, and a dirt-floored addition with walls that stop several feet short of the ceiling.
>
> Cooking is done on a grate balanced between cinderblocks over an open fire on the dirt floor. Water comes from a pipe, run from a neighbor's house, that sticks up from the ground behind the trailer. There is no bathroom—not even an outhouse. No electricity. No heat.

Mr. President, this is a description of third-world living conditions existing here in the United States of America. Such conditions are unsafe, unhealthy, and, I believe, simply intolerable. Nor is this a small problem. I know that in New Mexico we have at least 60 such communities in desperate need of this basic infrastructure. In Dona Ana County alone, there are 35 colonias.

Our border States have made great efforts in trying to deal with this problem. My State of New Mexico, for example, has spent large amounts of money to build community centers, health facilities, fire stations, and day care centers for its colonies. New Mexico also recently enacted a statute to tighten up zoning laws that had previously allowed developers to subdivide plots of land repeatedly for residential use without first supplying basic infrastructure.

Unfortunately, however, many of the border States simply do not have the financial capability to help with some of the more costly infrastructure that these communities need, especially drinking water and wastewater facilities. The colonias themselves certainly do not have these funds.

Consequently, I am offering an amendment, for myself and for Senator BINGAMAN, that I believe will greatly help these most needy of communities.

Mr. President, my amendment will authorize the Environmental Protection Agency, or any other appropriate agency, to award grants to any appropriate entity or border State to provide assistance for the construction of drinking and wastewater facilities.

My amendment also authorizes these agencies to use funds to operate and maintain these drinking and wastewater facilities. I believe this is a key point. It is not enough just to build these systems. Without the technical assistance to keep them operating, and operating well, we haven't accomplished anything.

In closing, Mr. President, I would like to thank Chairman CHAFEE and Senator KEMPTHORNE for their gracious help with this important amendment. I believe the amendment will go a long way in helping some of the neediest communities in the United States in two crucial public health areas. These colonias will finally get adequate sewer service, and they will finally receive clean, safe water to drink.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from Rhode Island.

The amendment (No. 3072) was agreed to.

Mr. CHAFEE. Mr. President, move to reconsider the vote by which the amendment was agreed to, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mr. CHAFEE). Without objection, it is so ordered.

Mr. GORTON. Mr. President, I ask unanimous consent that I be permitted to speak as in morning business for not to exceed 5 minutes.

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

A BALANCED BUDGET

Mr. GORTON. Mr. President, as we are here, I think, close to completing a very important piece of legislation on safe drinking water, we, as Members of this body, recognize that in another sense we are marking time during negotiations between the Republican leadership of the House and Senate and the President of the United States on the question of the balanced budget.

There was, just a few weeks ago, a crisis in the course of our Government as the President vetoed a continuing resolution and thus put out of work many hundreds of thousands of Government employees. Crisis negotiations led to a further continuing resolution under which each of the agencies of Government will continue in operation until the 15th of December while the various parties negotiate a long-term budget.

One of the conditions of that return, a part of the law signed by the President of the United States, was an agreement to reach before the end of this session of Congress, that is to say, before the end of the year, a budget which would be projected to be in balance by the year 2002 under figures and statistics provided by the Congressional Budget Office, so that each of us knew the parameters within which that debate would take place.

At the same time as these temporary arrangements were being made, this body and the House of Representatives passed, and is about to send to the President of the United States, a bill, the Balanced Budget Act of 1995, which accomplished precisely that goal. Many of the elements of that proposal are controversial, though it does for the first time truly reform our entitlement programs, including Medicare, Medicare in a way that preserves its financial security, keeps part A from going bankrupt, fairly continues the present percentage of premiums paid by the beneficiaries of part B, and adds to the premiums only of very well-off Americans.

The President has announced—and in this case we have no reason to doubt him—that he will veto that Balanced Budget Act of 1995. So far, in spite of that announced intention, in spite of his signature solemnly affixed to a bill which calls for just such a balanced budget under just such a set of statistics, the President has submitted no alternative budget which would be balanced under those rules by 2002.

As a consequence, the negotiations, which began abortively more than a week ago and seriously just a couple of days ago, have not even produced an agreement on an agenda. This is not surprising. We have produced and sent to the President the Balanced Budget Act of 1995. We believe that it covers all of the conditions asked for by the President: that it properly and appropriately funds Medicare, Medicaid, welfare, the national defense, the environment, and a wide range of other activities.

The President disagrees. That is the President's prerogative. But, Mr. President, it is not an appropriate response to that disagreement to simply sit still and say, ''Give me another alternative.'' The President has a duty, if he is serious at all about the budget crisis facing this country, to say,

> Here is my proposal for a balanced budget by the year 2002, based on these same propositions. Here are the differences between the two parties. Let us negotiate those differences.

To this point, every economic indicator since the election of just more than a year ago is in a positive direction. Interest rates are lower, inflation is down, employment and the gross domestic product are up, based, as we understand, primarily on the proposition that our financial markets believe that the budget will be balanced.

In my opinion, if the President continues to refuse to propose any alternative, if he believes that the politics of scare tactics about Medicare and other programs are a better election platform on which to run than an actual balanced budget, we will almost certainly suffer a loss in each one of

those economic indicators, which will not help the President—for that matter, will not help the Congress, and certainly will not help the country.

We are bound and determined to have just such a balanced budget. The President has now, by his signature on a bill, agreed to just such a balanced budget. It is time—it is well past time—that the President, who so eloquently disagrees with ours, produces his own so that we can work constructively toward a solution.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mr. GORTON). Without objection, it is so ordered.

SAFE DRINKING WATER ACT AMENDMENTS

The Senate continued with the consideration of the bill.

PRIVILEGE OF THE FLOOR

Mr. CHAFEE. Mr. President, I ask unanimous consent that Linda Reidt Critchfield, a fellow in Senator LIEBERMAN's office, be granted privileges of the floor for the duration of the debate.

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

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

The PRESIDING OFFICER (Mr. THOMPSON). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. CHAFEE. 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. CHAFEE. Mr. President, previously this afternoon I submitted amendment numbered 3072 on behalf of myself, Senator KEMPTHORNE, Senator BAUCUS, Senator REID and Senator DOMENICI, and that amendment was adopted. I ask unanimous consent that Senator BINGAMAN be added as a cosponsor to that amendment.

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

Mr. CHAFEE. 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. INHOFE. 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. INHOFE. Mr. President, I ask unanimous consent that I be allowed to speak as if in morning business.

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

PEACE AGREEMENT IN BOSNIA

Mr. INHOFE. Mr. President, yesterday when I was on the floor I made some comments which I do not think were very clearly understood because I was assuming some people were aware of some of the problems that have existed since the initialing of the peace agreement in Bosnia.

It has been very disturbing to me, after having been over there, to feel that most people are laboring under the misconception that there is in fact a peace. The President himself in his message to the Nation said, ''Now the war is over.'' I just wish the President would go over there and see that the war is not over.

But since that time, there have been some articles which I would like to read, and then submit into the RECORD. One is from the Los Angeles Times of November 25, just a few days ago.

''On Friday, November 24, approximately 200 Bosnian Government troops looted a U.N. base in the Bihac''—that is right over here, Mr. President, on the Croatian border—''manned by a Bangladeshi battalion. They fired machine guns over the heads of the peacekeepers and carried off food, fuel, and equipment including nine armored vehicles. The 80 peacekeepers returned fire''—keep in mind that while all of this is happening they are firing and returning fire—''but were forced to retreat. The Bosnians were taking advantage of the imminent withdrawal of U.N. forces to make way for NATO troops''—which gives you an indication as to what would happen even if we were able to stop this obsession that the President of the United States has in sending troops into Bosnia and were able to try to get them withdrawn.

Also, a Reuters publication on the same day, on Friday, the 24th, says, ''Also on Friday the 24th, U.N. officials reported that Croat forces burned and looted houses''—these are Croat forces—''in areas located in central and northwest Bosnia. Houses were burned and looted in the city of Gornji Vakuf''—which is this area right in here—''in central Bosnia and also in the cities of Mrkonjic Grad, and Sipovo''—which is this area right in here.

If you look, the major part of the activity is taking place in this section right of Bosnia. This is the section in which the United States would have forces.

I have often wondered, and have not been able to get an answer from anyone, as to who drew these lots for us; why we have the French over here and the British over here, but we would be right here—virtually everything north of Sarajevo up to and including Tuzla, and a corridor that would go through here, which is one of the most contentious areas.

This comes from the New York Times article of the 27th: ''On Sunday, November 26, angry groups of men stoned and flipped over U.N. vehicles passing through Serbian sections of Sarajevo.''

Sarajevo is an area that is divided up between Croats, Serbs, and Moslem forces, each with their own checkpoints.

Also according to the New York Times: ''As of November 26, a total of 210 peacekeepers have been killed in the 4 years of conflict in the former Yugoslavia.''

Mr. President, these are identified as peacekeepers. If you will remember, one of the major concerns that we have is that the President is putting our forces into a situation that is ideal for what we call ''mission creep.'' That is, you go in with one idea. Say you are going to go in, as we are going in, to keep the peace. Obviously, there is no peace to keep. But still they call them ''peacekeepers.''

When the President made his speech he was very careful to use the word ''implementation.''

So it has already crept from peacekeeping to peace ''implementation.''

The Times article goes on: ''In Bosnia itself, 107 have been killed, most by the former Serbs but some by the Muslims. Serbs have repeatedly used peacekeepers as hostages to secure their aims.''

Further, in the same article: ''In the past NATO has been able to respond to attacks on peacekeepers with air strikes on Serbian artillery and other positions. Now this is less of an option because the multinational troops will be mingled with the civilian population especially in places like Sarajevo, where about 10,000 troops are to be deployed.''

''The NATO operation is billed as one where superior Western firepower will obliterate any obstacles. But the NATO led force will not be threatened mainly by organized resistance, but by angry women and children, lone snipers and renegade bands of armed men determined to thwart a plan that would drive them from their homes and negate all they have fought to achieve.''

We are talking about people who have fought each other for nearly 4 years. And I stood on the streets of Sarajevo and saw those areas where they have pounded the residential areas and have obliterated them. Many of the people who are there now are not the people who lived in Sarajevo before. They were not there back during the Winter Olympics that we remember so fondly in such a beautiful thriving city as Sarajevo then was. They are people who came in there as refugees. Once the people were driven from their homes, they were no longer livable for individuals who had those homes, and now refugees have come in.

So we are dealing now with two groups of people that are going to be problems—assuming that we are successful in going in there to achieve some type of peace.

Col. Thierry Cambournac of NATO, deputy sector commander of Sarajevo, said he feared that the soldiers could get drawn into conflicts in urban areas

they will patrol. A quote from the colonel: ''Our biggest concern is the population in these areas will revolt.''

Their concern is not whether one of the organized factions, whether it is Croats or Serbs or the Moslems, are going to be a problem. It is instead the people who have been driven from their homes. In fact, the mayor of this suburb said, and this is a direct quote, ''We will still fight, and if the multinational force tries to drive us from our homes, or take away our right to defend ourselves, there will be no authority on Earth''—no authority on Earth—''including the Serbian authorities, that can stop us. We will not leave, we will not withdraw, and we will not live under Muslim rule.''

Now, we get back to the two groups of people, the groups of people that have fought for homes. And what does that mean when they have a peace? They assume they can continue to live in their homes. But, no, that is not the way this works because if they happen to be a Serbian family in a home that is now designated by this group that met in Ohio as a Croatian area, then they will be driven from their homes.

I used to be the mayor of a major city in America, Tulsa, OK. You do not make statements like this unless you mean it. He says we will not leave. So we now have a new faction, rogue faction if you will, that will develop from people who are living in homes, fought for homes they feel are theirs now, and now we come along and say, ''You have to move.''

What is the other group? We hear about 2 million refugees that are scattered all throughout this region. I think it is closer to 3 million. When I was over there, they were identifying close to 3 million refugees, but let us be conservative and say 2 million refugees. These are people who have been driven from their homes—a second group of people. These people were driven from their homes. When they hear there is a peace accord, what does that mean to a refugee? It means he can go home.

So what happens to those people? Are they Serbs? Are they Bosnian Serbs? Are they Moslems? Are they Croats? We do not know. And it does not really matter what they are because they are going to become rogue elements. Our intelligence community has already identified nine rogue elements. We have the Iranians; the mujaheddin; we know they are in there right now; we have the Black Swans which are mostly Moslems; we have the Arkan Tigers; we have special forces.

So, Mr. President, we are not dealing with three people sitting around a table in Dayton, OH, agreeing about what they are going to do. I seriously doubt that the star of that show, the one who was supposed to be the most difficult to swing into a peace posture, Milosevic, is really speaking on behalf of those Serbs in Bosnia because those people are considered Bosnian Serbs, and they consider themselves to be independent.

When I was in Sarajevo, there is a little town located right here called Pale. This is the town where they supposedly had the Christian Science Monitor journalist who had been held hostage for a period of time, and we were getting ready to go over there to help bring him back when we found out in fact he was not there. But one thing we did learn is that when you close those checkpoints, you are in another world, and those people do not have their allegiance to Milosevic. They do not have their allegiance to Tudjman or in many cases even Karadzic because they are people who are now holding themselves out to be independent.

So I would just repeat to the President, who in his speech said the words ''the war isn't over,'' I have yet to find—there are only two Members of Congress, to my knowledge, who have been up into this northeast sector, the sector where the President is proposing to send—and as we are speaking today is sending—American troops on the ground. They are Senator Hank BROWN from Colorado and myself.

Yesterday, we had a chance to address the Senate about what has really happened up there. It is not very pretty. In fact, we went via British helicopter, at very low attitude, never getting over 1000 feet, in a blizzard, all the way from Sarajevo up to the Tuzla area, going back and forth, and really being able to look very carefully at all of this land.

Everything between Sarajevo and Tuzla is not like the Rocky Mountains, not like we think of mountainous regions. It is straight up and down. There is no way you could have even any kind of a light armored vehicle penetrate and travel through those roads, leave alone 120 M1 tanks they are talking about bringing from Hungary, down across the Posavina corridor and into the Tuzla area. Once they go into the Tuzla area, the terrain will not allow them to go any further.

We have seen articles, many of which I have here, published recently about the mines, about the roads. They talk about the roads coming down from Hungary into the Tuzla area where 120 M1 tanks—there is only one bridge in the entire area that is going to be able to hold up an M1 tank. Up in Tuzla, General Haukland, a Norwegian general who was in charge up there, said that another element that you are going to have hostile are the very people we are supposedly trying to protect and trying to achieve peace for. Those are the individuals who will be mad because we have torn the roads up, the same roads they need for commerce and freedom of movement.

I have never seen a proposed mission as doomed for failure as this one. We do not know who the enemy is. We are dealing with the mentality of people who fire on their own troops, murder their own people so they can blame somebody else. I do not know why anyone would not come to the conclusion that, if you are going to fire on your own troops so you can blame some other faction, you would certainly fire on American troops trying to remove you from your home.

It is my understanding—from the sketchy information we get from the agreement that has been initialed—that there are two conditions under which we will withdraw our troops. One is at the end of 12 months.

Now, since I have not heard anything to the contrary since the Senate Armed Services Committee met, when we had Secretary Christopher and Secretary Perry and General Shalikashvili, the Chairman of the Joint Chiefs of Staff, all said that in 12 months we will be out of there. And I asked the question, you mean we are going to be out of there regardless? If we are in the middle of a huge war, if we have entrenched ourselves within the civil war that has been going on for 500 years, we are about to win it, and that 12 months is over, we withdraw? Absolutely, they said, we are going to withdraw in 12 months, and it is over.

I do not think there is anyone who has studied military history who can point to a time when we have had a time deadline as to when a withdrawal will take place. It is supposed to be event-oriented: After this happens and this happens and we are successful, then we will withdraw. That is not what we are saying. We are saying we will withdraw in 12 months.

The other condition is withdrawal in the event of ''systemic violations.''

Mr. President, I have asked for many times a definition of ''systemic violation.'' What is a systemic violation? The administration speaks in vague terms about this. They say if you take the Croats or take the Serbs or take the Moslems as the three major factions, and if it is obvious that one faction is going to break the peace accord that we assume is going to be signed and is going to be acknowledged, then that would constitute a systemic violation.

Well, we already know that there are nine or perhaps more rogue elements out there. How is our soldier, who has been trained over in Germany to fight in this type of terrain, how is this soldier who is fired upon going to know whether that firepower is coming from the Croats, the Serbs, the Moslems or is coming from some irate families who do not want to leave their homes or from some refugees who want to go home or the Black Swans or the Arkan Tigers or the mujaheddin?

This is the problem we have here. Nobody can answer these questions. And yet systemic violation means we pick up our toys and go home. And what is going to happen on the road home? The same thing that you are seeing over here as we are making a transformation from a U.N. peacekeeping operation to a NATO operation that has not been well-defined. They are firing on so-called ''peacekeeping'' troops. And we are not really sure who will be firing on our troops. Now, if it

could happen now during a cease-fire, it certainly can happen later. I have been disturbed for 2 years about this because 2 years ago—and I do not think it served any useful purpose—when I was serving in the other body, serving on the House Armed Services Committee, one of the top individuals came in and said that one of the first things that President Clinton said when he came into office was that he wanted to do airdrops into Bosnia. And I asked the question, in this closed meeting at that time—it is all right to talk about it now—I said, ''Well, let me ask you a question. They have been fighting over there with all these rogue elements, with all these factions. How do you know, if we are dropping our stuff in there, if it will be in the hands of the good guys instead of the bad guys?'' The answer of this official was, ''Well, we don't know.'' Then he hesitated and looked over and said, ''You know, I'm not sure we know who the good guys and the bad guys are.''

We have clearly taken sides. We are now saying that we are in a peace implementation posture where we are supposed to be neutral. We are going in with a NATO force that is declared to be neutral, yet we have taken sides clearly against the Serbs. That is where our air attacks have gone. I think it would be very difficult for us to go in and say we are truly neutral in this case.

I guess the reason that I am going to continue talking about this for as long as we are in session is that each hour that goes by, Mr. President, we become more in peril. More of our American lives are endangered because, as we are speaking today, they are taking the troops—the troops that have been trained and the advanced troops who are going in for logistics purposes—and they have already been deployed from Germany up to Hungary, down south toward the Tuzla area that has been assigned to us, having to go through such hostile areas as this part of Croatia, this part of Serbia and, of course, the Posavina corridor which we already talked about.

That means that if it is an hour after this or a day after this, there are going to be several more—how many are there right now? I am embarrassed to tell you, Mr. President, I do not know. I am a Member of the U.S. Senate. I am a member of the Senate Armed Services Committee. I am a member of the Senate Intelligence Committee, and yet I do not know. And it is a highly guarded secret.

We read different articles in the newspapers about how many are over there. We hear calls from people at home that say that they have heard from their son or daughter who is being deployed or was deployed 2 or 3 days ago. And there is no way of knowing.

But we do know this: That the clear strategy of the President of the United States is to get as many American troops over there as possible before there is any vote that takes place in this Senate so that he will put us in a position of voting against our troops that are on the ground, which he knows we do not want to do. And so he is holding us hostage in Congress.

One thing we have not talked about is the cost of all of this. Talk about being held hostage. We have gone through these humanitarian gestures in Sarajevo and Haiti and all the rest of the things that are part of President Clinton's foreign policy. And while we do not authorize them, they come around later and say now we have to have an emergency supplemental appropriation. We passed one out of this body a few weeks ago for $1.4 billion. And that was for the things that were taking place in Haiti and Somalia. And those were exercises that we opposed in a bipartisan way in both the House and the Senate.

So I anticipate that if the President is successful, as it appears he is going to be—it may be a fait accompli. Maybe it has already happened. Maybe we cannot stop it. So our troops are going to be sent out over there, not 20,000, not 25,000; we know it will be closer to 40,000 or 50,000, at least. Then we will be faced one of these days with a supplemental appropriation request for not $1.5 billion but for, according to the Heritage Foundation and some other groups, somewhere between $3 billion and $6 billion.

It means if we do not then appropriate that in an emergency supplemental appropriation, it is going to come out of the military budget. And we are already operating our military on a budget that is of the level of 1980, when we could not afford spare parts.

So, Mr. President, I want to impress upon this body that the war is not over over there, that they are killing people today as we speak, that all this hostility is taking place in these areas, along with all we know about in the sector referred to as the northeast U.N. sector where we will have our troops.

I have been up there. I do not think there is one person so far who has been north of Sarajevo and up through Tuzla who says that we should send young American lives into that area. I have never personally seen any more hostile area in my life. I have never seen anything that looks like that.

There is no way we can use the armored vehicles. And it is very easy to understand now, in studying our history of World War II, how the former Yugoslavia was able to, at a ratio of 1 to 8, hold off the very finest that Hitler had because of this very unique area of cliffs and caves, this hostile environment, where the President of the United States is sending our young soldiers.

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

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

SAFE DRINKING WATER ACT AMENDMENTS

The Senate continued with the consideration of the bill.

AMENDMENT NO. 3073

Mr. KEMPTHORNE. Mr. President, I send to the desk an amendment for immediate consideration on behalf of Senators THOMAS and SIMPSON.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Idaho [Mr. KEMPTHORNE], for Mr. THOMAS, for himself, and Mr. SIMPSON, proposes an amendment numbered 3073.

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

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

The amendment is as follows:

On page 7, line 23 after ''the State).'', add the following: ''*Provided further,* in nonprimacy States, the Governor shall determine which State agency will have the authority to establish assistance priorities for financial assistance provided with amounts deposited into the State loan fund.''

Mr. KEMPTHORNE. Mr. President, this amendment simply clarifies that for a State that does not have primacy to manage its drinking water program, the Governor, rather than a State agency, will have authority to establish priorities for the use of the State revolving loan fund. This is applicable to Wyoming, which does not have primacy.

This amendment has been cleared by both sides of the aisle, and I ask for its adoption.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment.

So the amendment (No. 3073) was agreed to.

Mr. KEMPTHORNE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 3074

Mr. KEMPTHORNE. Mr. President, I send to the desk an amendment on behalf of Senator BOND and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The bill clerk read as follows:

The Senator from Idaho [Mr. KEMPTHORNE], for Mr. BOND, proposes an amendment numbered 3074.

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

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

The amendment is as follows:

On page 111, line 22, insert: ''except that the Administrator may provide for an extension of not more than 2 years if, after submission and review of appropriate, adequate documentation from the State, the Administrator determines that the extension is necessary and justified''.

Mr. KEMPTHORNE. Mr. President, this amendment clarifies that the Administrator may grant up to a 2-year extension to a State that needs additional time to issue drinking water standards in compliance with this act. This authority is discretionary. States must show that the extension is necessary and justified.

This amendment also has been cleared on both sides of the aisle. I ask for its adoption.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment.

So the amendment (No. 3074) was agreed to.

Mr. KEMPTHORNE. Mr. President, I move to reconsider the vote by which the amendment was agreed to, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3075

(Purpose: To require that the needs of Native villages in the State of Alaska for drinking water treatment facilities be surveyed and assessed as part of the State survey and assessment)

Mr. KEMPTHORNE. Mr. President, I send to the desk on behalf of Senator MURKOWSKI an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The bill clerk read as follows:

The Senator from Idaho [Mr. KEMPTHORNE], for Mr. MURKOWSKI, for himself, Mr. STEVENS, Mr. CHAFEE, Mr. KEMPTHORNE, Mr. BAUCUS and Mr. REID, proposes an amendment numbered 3075.

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

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

The amendment is as follows:

On page 28, line 3, before the period, insert ''(including, in the case of the State of Alaska, the needs of Native villages (as defined in section 3(c) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(c)))''.

Mr. KEMPTHORNE. Mr. President, this amendment simply clarifies that the needs of Native Alaska villages will be counted for purposes of determining the State of Alaska's share of the State revolving loan fund.

This amendment also has been cleared on both sides of the aisle, and I ask for its adoption.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment.

So the amendment (No. 3075) was agreed to.

Mr. KEMPTHORNE. Mr. President, I ask unanimous consent that the amendment reflect that it is both Senator MURKOWSKI and Senator STEVENS as cosponsors.

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

Mr. KEMPTHORNE. Mr. President, I move to reconsider the vote by which the amendment was agreed to, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

AMENDMENT NO. 3074, AS MODIFIED

Mr. CHAFEE. Mr. President, I ask unanimous consent that amendment No. 3074, previously agreed to, be modified with the changes I have sent to the desk.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The amendment (No. 3074), as modified, is as follows:

On page 112, line 2, before the first semicolon, insert the following: ''except that the Administrator may provide for an extension of not more than 2 years if, after submission and review of appropriate, adequate documentation from the State, the Administrator determines that the extension is necessary and justified''.

Mr. CHAFEE. Mr. President, the Senator from New York, Senator MOYNIHAN, has long been a driving force in attempting to have the Environmental Protection Agency set its priorities based on good science. He is the author of a bill to accomplish this. That bill was the basis for section 28 in the legislation that we are considering today.

Although we have agreed to drop section 28 from this bill, I want to assure the Senator from New York that we will continue to work with him and other interested Senators on this matter.

Personally, I have agreed with Senator MOYNIHAN that because he was generous enough and gracious enough to agree to the dropping of section 28, that as chairman of the Environment and Public Works Committee I will present to the committee section 28 as a freestanding bill. We have agreed we will have a hearing on this, and I will seek to have legislation approved by the committee as quickly as possible.

In addition, Senator JOHNSTON has some views on this matter, and we would invite him to testify at that hearing. My goal would be to hold a hearing in the next few weeks, and my hope is we could proceed to report a new freestanding bill shortly thereafter.

Mr. President, earlier I presented an amendment on behalf of Senator DOMENICI in connection with providing assistance to those villages located on the United States-Mexican border known as colonias. I ask unanimous consent that Senators KYL and FEINSTEIN be added as original cosponsors to Senator DOMENICI's amendment.

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

Mr. SMITH. Mr. President, in the 1994 elections, Americans demanded a smaller, smarter Federal Government and a more rational, cost-effective system of regulation. While Americans do not want to compromise on public health protection, they do want an assurance that the public health and environmental protection dollars are being spent wisely. That is why Federal and State Governments must prioritize and target scarce resources toward reducing health threats based on actual or likely risks. This concept makes sense and is supported by public health agencies as well as the scientific community.

There are several environmental statutes that, although they were enacted with the best of intentions, have been unworkable in their implementation and enforcement—the Safe Drinking Water Act being one of them. No one disputes the importance of preserving this public health statue. However, there are reforms that need to be made. At the same time, this Congress is not here to gut any environmental laws, as some national environmental organizations would have the public believe—our goal is to make them work more effectively for the benefit of all our citizens.

When we talk about the issue of unfunded Federal mandates, the Safe Drinking Water Act is regarded by many State and local governments as the king of unfunded mandates. It is particularly burdensome on economically distressed communities and those with a small or diminishing tax base.

While the issue of Federal mandates is not new, the level of concern among municipal governments has risen dramatically in recent years, and with good reason. According to a report by the Congressional Budget Office, the number of Federal mandates is increasing while Federal aid to State and local governments for categories other than welfare has been falling on a per capita basis since 1978. Contributing to the mandate burden is the insufficient flexibility in Federal regulations.

Last year's Safe Drinking Water bill represented a major improvement over existing law, especially through the elimination of the arbitrary requirement that EPA regulate 25 contaminants every 3 years. This year's proposed modifications, however, fine tune the statue's ability to achieve congressional objectives of providing more flexibility and authority to State and local governments, lessening the burden of Federal mandates and prioritizing resources according to risk—thereby achieving greater public health protection.

I support the efforts of Senators KEMPTHORNE and CHAFEE in reaching an agreement with other committee members on a Safe Drinking Water reform bill. I have been closely involved

in negotiating many of its provisions, including: a more reasonable radon standard that will save New England water suppliers and their ratepayers millions of dollars without compromising public health; and the authorization of five small system water technology centers at academic institutions around the country to assist in developing and testing affordable treatment technologies for small systems. One of these centers I hope will be established at the University of New Hampshire, which has extensive knowledge and experience in water technology.

So today, Mr. President, I am pleased that the Senate is giving approval of these much needed reforms to the Safe Drinking Water Act. This bill received the unanimous support of the Environment and Public Works Committee, of which I am a member, as well as the coalition representing State and municipal government and public water supply community. I now urge the House to act expeditiously on its reauthorization bill so that our communities can soon receive the regulatory relief and financial assistance they need.

AMENDMENT NO. 3076

(Purpose: To strike the provisions with respect to comparative risk assessment)

Mr. CHAFEE. Mr. President, I just referred to the fact that we would be dropping section 28 from the bill in accordance with an agreement with Senator MOYNIHAN and others.

I now send to the desk an amendment to accomplish that, and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Rhode Island [Mr. CHAFEE], for himself, Mr. KEMPTHORNE, Mr. BAUCUS, and Mr. REID, proposes an amendment numbered 3076.

Beginning on page 179, line 16, strike section 28 of the bill and renumber subsequent sections accordingly.

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

The amendment (No. 3076) was agreed to.

Mr. CHAFEE. I move to reconsider the vote.

Mr. KEMPTHORNE. I move to lay it on the table.

The motion to lay on the table was agreed to.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

UNANIMOUS-CONSENT AGREEMENT

Mr. CHAFEE. Mr. President, I ask unanimous consent that there be 40 minutes equally divided on the Boxer amendment, community right to know, and following the conclusion or yielding back of time, the Senate proceed to vote on or in relation to the Boxer amendment without any intervening action or amendment.

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

PRIVILEGE OF THE FLOOR

Mr. HARKIN. Mr. President, I ask unanimous consent that Tom Irvin, a legislative fellow in my subcommittee, be permitted privileges of the floor during my statement.

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

THE 20TH ANNIVERSARY OF IDEA

Mr. FRIST. Mr. President, I rise to acknowledge the 20th anniversary of the Individuals With Disabilities Education Act [IDEA].

It is important to pause today and recognize the impact that this law has had on the lives of millions of children with disabilities and their families during the last two decades. Through this law we deliver on a timeless simple promise—every child with a disability shall have a free appropriate public education—no more, no less.

The Senate Subcommittee on Disability Policy, which I chair, is involved in the reauthorization of IDEA. As the new chairman of the subcommittee, I wanted to get the facts before we began the reauthorization process. The subcommittee held four hearings on the law in May and July of this year. The first hearing on May 9, which I cochaired with my friend from California, Mr. CUNNINGHAM of the other body, was a joint congressional hearing on the 20th anniversary of IDEA.

During the course of that hearing we heard from Members who were original cosponsors of the legislation in 1975, judges and attorneys involved with the landmark court cases that served as catalysts for IDEA, and former congressional staff and advocates for children with disabilities, who facilitated its historic passage.

That hearing sent a valuable message to students with disabilities, their families, and educators. Members of Congress have a longstanding interest in assuring a free appropriate public education and early intervention services for infants, toddlers, children, and youth with disabilities. Designing and sustaining the Federal role in assisting States with these responsibilities is founded on bipartisan cooperation.

There are many challenges that face America's young people: What to choose for a life's work, how to evaluate advice, how to judge one's own progress, and how to define personal satisfaction and happiness. Their approach to these questions will be colored by the behavior of adults around them. Do we celebrate individual abilities and differences? Do we encourage cooperation and collaboration in school? Do we respect and recognize the opinions of young people? Do we promote goal setting based on interests and abilities?

How we answer these questions with regard to young people with disabilities is a barometer. If young people with disabilities are exposed to the experiences of their peers, if we help them become a valued member of their peer group, if we take into account their choices, and if we help them become the best they can be, they and their nondisabled friends learn a valuable lesson. They learn that adults care, that we are fair, and that we can be trusted.

My good friend from Iowa and I released the first draft of the authorization bill for IDEA on November 20. As we developed the draft, we were always conscious of these young people and their future.

We have spent many months reading and talking to people about how to best serve children with disabilities through IDEA. Five major principles influenced our drafting efforts.

First, children with disabilities and their families should be the central focus of our drafting efforts.

Second, if a provision in IDEA works, don't undo it.

Third, add incentives that encourage schools to serve children, based on needs, not because of disability labels.

Fourth, add incentives that encourage and prepare schools to include children with disabilities in schoolwide innovation, reform efforts, and assessments of student progress.

Fifth, clearly link discretionary programs to the State grant programs, so that discretionary grants help educators educate children with disabilities and help families contribute in meaningful ways to the educational process of their children.

We have done what we set out to do. We have crafted a bill that will take us into the next century, a bill that celebrates the legacy established 20 years ago today, a bill that gives parents and educators the tools they need to help young people with disabilities succeed, and a bill that delivers on that timeless simple promise—a free appropriate public education for each child with a disability.

Such an education is an investment in people whose hopes, opportunities, and achievements are dependent on us. As we proceed with the reauthorization process, I urge my colleagues to join me in celebrating a law that works, a law that endures, a law that is most necessary. Although the difference it has made may be measured in dollars and judged in terms of children served, its impact is more pervasive, more powerful. Services it funds have lead to words read, concepts understood, steps taken, and words spoken—often for the first time. As such experiences are repeated, young people with disabilities develop pride and increased confidence

in their achievements. IDEA is definitely a law worth recognizing, celebrating, and preserving.

20TH ANNIVERSARY OF PUBLIC LAW 94–142, THE EDUCATION FOR ALL HANDICAPPED CHILDREN ACT OF 1975.

Mr. HARKIN. Mr. President, today marks the 20th anniversary of the signing of Public Law 94–142, the Education for All Handicapped Children Act, now known as Part B of the Individuals with Disabilities Education Act [IDEA].

On that fall day two decades ago, we literally changed the world for millions of children with disabilities. At that time, over 1 million children with disabilities in the United States were excluded entirely from the public school system, and more than half of all children with disabilities were not receiving appropriate educational services.

On that day, we exclaimed that the days of exclusion, segregation, and denial of education of disabled children are over in this country.

On that day we sent a simple, yet powerful message heard around the world: disability is a natural part of a child's experience that in no way diminishes the fundamental right of a disabled child to receive a free and appropriate public education.

On that day, we also sent a powerful message that families count and they must be treated as equal partners in the education of their children.

On that day we lit a beacon of hope for millions of children with disabilities and their families.

Since the enactment of Public Law 94–142, considerable progress has been made in fulfilling the message that was conveyed by the Congress in 1975.

Today, 20 years later, every State now ensures a free appropriate public education to all children with disabilities between the ages of 3 and 18, and most States extend that provision through age 21. Over 5 million children with disabilities are now receiving special education and related services. And all States now provide early intervention services to infants and toddlers with disabilities from birth through age two and their families.

Today, the beacon of hope is burning bright. As one parent from Iowa recently told me:

> Thank God for IDEA. IDEA gives us the strength to face the challenges of bringing up a child with a disability. It has kept our family together. Because of IDEA our child is achieving academic success. He is also treated by his nondisabled peers as ''one of the guys.'' I am now confident that he will graduate high school prepared to hold down a job and lead an independent life.

In May, Danette Crawford, a senior at Urbandale High School in Des Moines testified before the Disability Policy Subcommittee. Danette, who has cerebral palsy, testified that:

> My grade point average stands at 3.8 and I am enrolled in advanced placement courses. The education I am receiving is preparing me for a real future. Without IDEA, I am convinced I would not be receiving the quality education that Urbandale High School provides me.

Mr. President, these are not isolated statements from a few parents in Iowa. They are reflective of the general feeling about the law across the country. The National Council on Disability [NCD] recently conducted 10 regional meetings throughout the Nation regarding progress made in implementing the IDEA over the past 20 years. In its report, NCD stated that ''in all of the 10 regional hearings * * * there were ringing affirmations in support of IDEA and the positive difference it has made in the lives of children and youth with disabilities and their families.'' The report adds that ''all across the country witnesses told of the tremendous power of IDEA to help children with disabilities fulfill their dreams to learn, to grow, and to mature.''

Anniversaries are a time to celebrate; but they are also a time to reflect. So, as we look back on the enactment of IDEA, we must also step back and ask some basic questions: Has the IDEA resulted in full equality of educational opportunity for all children with disabilities? Should we be satisfied with the educational outcomes we are achieving; can we do better?

From the four hearings held by the Subcommittee on Disability Policy, it is clear to me that major changes in IDEA are not needed nor wanted. IDEA is as critical today as it was 20 years ago, particularly the due process protections. These provisions level the playing field so that parents can sit down as equal partners in designing an education for their children.

The witnesses at these hearings did make clear, however, that we need to fine-tune the law, in order to make sure that children with disabilities are not left out of educational reform efforts that are now underway, and to take what we have learned over the past 20 years and use it to update and improve this critical law.

Based on 20 years of experience and research in the education of children with disabilities, we have reinforced our thinking and knowledge about what is needed to make this law work, and we have learned many new things that are important if we are to ensure an equal educational opportunity for all children with disabilities:

For example, our experience and knowledge over the past 20 years have reaffirmed that the provision of quality education and services to children with disabilities must be based on an individualized assessment of each child's unique needs and abilities; and that, to the maximum extent appropriate, children with disabilities must be educated with children who are not disabled and children should be removed from the regular educational environment only when the nature and severity of the disability is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily.

We have also learned that students with disabilities achieve at significantly higher levels when schools have high expectations—and establish high goals—for these students, ensure their access to the general curriculum—whenever appropriate—and provide them with the necessary services and supports. And there is general agreement that including children with disabilities in general State and district-wide assessments is an effective accountability mechanism and a critical strategy for improving educational results for these children.

Our experience over the past 20 years has underscored the fact that parent participation is a crucial component in the education of children with disabilities, and parents should have meaningful opportunities, through appropriate training and other supports, to participate as partners with teachers and other school staff in assisting their children to achieve to high standards. And we also know how critical it is for school administrators to have the tools they need to ensure school environments that are safe and conducive to learning.

There is general agreement today at all levels of government that State and local educational agencies must be responsive to the increasing racial, ethnic, and linguistic diversity that prevails in the Nation's public schools today. Steps must be taken to ensure that the procedures used for referring and evaluating children with disabilities include appropriate safeguards to prevent the over- or under-identification of minority students requiring special education. Services, supports, and other assistance must be provided in a culturally competent manner. And greater efforts must be made to improve post-school results among minority students with disabilities.

The basic purposes of Public Law 94–142 must be retained under the proposed reauthorization of IDEA: To assist States and local communities meet their obligation to ensure that all children with disabilities have available to them a free appropriate public education that emphasizes special education and related services designed to meet the unique needs of these children and enable them to lead productive independent adult lives; to ensure that the rights of children with disabilities and their parents are protected; and to assess and ensure the effectiveness of efforts to educate children with disabilities.

We also need to expand those purposes to promote the improvement of educational services and results for children with disabilities and early intervention services for infants and toddlers with disabilities—by assisting or supporting systems change initiatives by State educational agencies in partnership with other interested parties, coordinated research and personnel preparation, and coordinated technical assistance, dissemination, and

evaluation, and technology development and media services.

The progress that has been made over the past 20 years in the education of children with disabilities has been impressive. However, it is clear that significant challenges remain. We must ensure that this crucial law not only remains intact as the centerpiece for ensuring equal educational opportunity for all children with disabilities, but also that it is strengthened and updated to keep current with the changing times.

In closing, Mr. President, I would like to quote Ms. Melanie Seivert of Sibley IA, who is the parent of Susan, a child with Downs Syndrome. She states:

> Our ultimate goal for Susan is to be educated academically, vocationally, [and] in life-skills and community living so as an adult she can get a job and live her life with a minimum of management from outside help. Through the things IDEA provides * * * we will be able to reach our goals.
>
> Does it not make sense to give all children the best education possible? Our children need IDEA for a future.

Mr. President, IDEA is the shining light of educational opportunity. And, on this the 20th anniversary of the IDEA, we in the Congress must make sure that the light continues to burn bright. We still have promises to keep.

Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

SAFE DRINKING WATER ACT AMENDMENTS

The Senate continued with the consideration of the bill.

Mr. THOMAS. Mr. President, we are in the process of talking about the Safe Drinking Water Act now, I understand?

The PRESIDING OFFICER. The Senator is correct.

Mr. THOMAS. Good. I would like to do that.

Mr. President, I want to speak in behalf of this bill. I think it is one that is very important to all of us, certainly important to my State. I congratulate Senator KEMPTHORNE and Senator CHAFEE and Senator BAUCUS for the hard work and long time that has gone into it. This is an important bill. It has been very long in coming. Last year in the House we worked on this bill. I think it reflects a good deal of thoughtful consideration. Therefore, I believe it deserves the support of Members of this Senate.

It has been an inclusive process in which many people with many interests have been involved. It is important that be the case. We are talking here about a program that affects us all over the country, a country in which the effects are quite different. Certainly some of the small towns in Wyoming have different problems than Pittsburgh or Los Angeles, and one of the efforts we have to make is to make it flexible enough to reflect that. I think this bill does that. Overregulation, certainly, has been on the minds of most people. It is much on the minds of the people I talk to in Wyoming. People are weary of the top-down kinds of regulations, that one-size-fits-all sort of thing. It is difficult to deal with that. I think this bill attempts to do that and does so in a very effective way.

The Safe Drinking Water Act, as it has been, has been an example of the old approach, regulating substances that do not even occur in drinking water and do not pose a risk in particular areas. I always think of the efforts we made in Pinedale, WY, which has a water supply. There is a very deep lake that is close. Even though the testing would show that water was of excellent quality, they were, at least ostensibly, required to invest a great deal of their taxpayers' money to do some things that probably were not necessary.

So people have asked for change and a new direction. The principle guiding this change is common sense. That is what I think we seek to do here, and the sponsors of the bill have done so, I think, successfully. It injects much-needed common sense into the regulatory process while doing a better job at protecting public health.

The current mandate that 25 contaminants be regulated every 3 years regardless of whether there is a risk is repealed. The risk assessment is inserted into the process. States' roles are increased. Water systems are able to focus their efforts and their resources monitoring contaminants that actually occur in the systems. And that is good. In a word, the bill shatters the status quo.

I again thank the sponsors for their attention to a State like Wyoming, which is different—small towns, different sources. So we have worked closely with Senators KEMPTHORNE and CHAFEE to ensure that our communities did have the opportunity to take advantage of the funding mechanisms and the regulatory relief that this bill provides. I thank them for that.

In addition, the small systems, as defined in this bill as those serving under 10,000, will be given special consideration when seeking ways to comply with the regulations.

The bill is not perfect, of course, and there has been a great deal of effort going on each day, and some things needed to be changed. But overall the bill is an excellent one, and is an effort that will reduce the cost to local communities, municipalities but allowing them to protect effectively.

So I urge my colleagues to support the bill. I hope the other body will act quickly, and the President will support our efforts. This bill is needed and we ought to move forward, and I urge that.

Mr. President, thank you. I yield the floor.

Mr. KEMPTHORNE addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. KEMPTHORNE. Mr. President, I thank the Senator from Wyoming for his statement on the floor, and I also thank him for his great support in the Environment and Public Works Committee. We are very happy to have him as a cosponsor, and his addition to that committee on behalf of the voices of small town America and rural communities is extremely helpful. We thank him.

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. I also want to thank the distinguished Senator from Wyoming for his kind comments and for his help on this legislation. He is a very valuable member of our committee, and we appreciate everything he has done to help with this.

AMENDMENT NO. 3077

Mr. CHAFEE. Mr. President, on behalf of myself, Senators KEMPTHORNE, BAUCUS, REID, D'AMATO, and MOYNIHAN, I send to the desk a printed amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

> The Senator from Rhode Island (Mr. CHAFEE), for himself, and Mr. KEMPTHORNE, Mr. BAUCUS, Mr. REID, Mr. D'AMATO and Mr. MOYNIHAN proposes an amendment numbered 3077.

Mr. CHAFEE. 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 168, line 7, strike ''GROUND WATER PROTECTION'' and insert ''WATERSHED AND GROUND WATER PROTECTION''.

On page 173, after line 7, insert the following:

''(g) WATERSHED PROTECTION DEMONSTRATION PROGRAM.—

''(1) The heading of section 1443 (42 U.S.C.) is amended to read as follows:

''grants for state and local programs

''(2) Section 1443 (42 U.S.C.) is amended by adding at the end thereof the following:

''(e) WATERSHED PROTECTION DEMONSTRATION PROGRAM.—

''(1) IN GENERAL.—

''(A) ASSISTANCE FOR DEMONSTRATION PROJECTS.—The Administrator is authorized to provide technical and financial assistance to units of State or local government for projects that demonstrate and assess innovative and enhanced methods and practices to develop and implement watershed protection programs including methods and practices that protect both surface and ground water. In selecting projects for assistance under this subsection, the Administrator shall give priority to projects that are carried out to satisfy criteria published under section 1412(b)(7)(C) or that are identified through programs developed and implemented pursuant to section 1428.

''(B) MATCHING REQUIREMENTS.—Federal assistance provided under this subsection shall

not exceed 35 percent of the total cost of the protection program being carried out for any particular watershed or ground water recharge area.

''(2) NEW YORK CITY WATERSHED PROTECTION PROGRAM.—

''(A) IN GENERAL.—Pursuant to the authority of paragraph (1), the Administrator is authorized to provide financial assistance to the State of New York for demonstration projects implemented as part of the watershed program for the protection and enhancement of the quality of source waters of the New York City water supply system. Demonstration projects which shall be eligible for financial assistance shall be certified to the Administration by the State of New York as satisfying the purposes of this subsection and shall include those projects that demonstrate, assess, or provide for comprehensive monitoring, surveillance, and research with respect to the efficacy of phosphorus offsets or trading, wastewater diversion, septic system siting and maintenance, innovative or enhanced wastewater treatment technologies, innovative methodologies for the control of stormwater runoff, urban, agricultural, and forestry best management practices for controlling nonpoint source pollution, operator training, compliance surveillance and that establish watershed or basin-wide coordinating, planning or governing organizations.

In certifying projects to the Administration, the State of New York shall give priority to those monitoring and research projects that have undergone peer review.

''(C) REPORT.—Not later than 5 years after the date on which the Administrator first provides assistance pursuant to this paragraph, the Governor of the State of New York shall submit a report to the Administrator on the results of projects assisted.

''(3) AUTHORIZATION.—There are authorized to be appropriated to the Administrator such sums as are necessary to carry out this subsection for each of fiscal years 1997 through 2003 including $15,000,000 for each of such fiscal years for the purpose of providing assistance to the State of New York to carry out paragraph (2).''.

On page 171, line 21, strike ''20,000,000'' and insert ''15,000,000''.

On page 171, line 24, strike ''35,000,000'' and insert ''30,000,000''.

On page 172, line 3, strike ''20,850,000'' and insert ''15,000,000''.

On page 2, in the material following line 6, strike ''Sec. 25. Ground water protection.'' and insert ''Sec. 25. Watershed and ground water protection.''.

Mr. CHAFEE. Mr. President, this authorizes the expenditure of $15 million a year for 7 years to the year 2003 for the protection of the watershed of the city of New York. This is a very unusual approach that they are trying in New York in which, instead of building very, very expensive water treatment facilities that would amount to more than $1 billion, they are trying to protect the watershed; in other words, the headwaters of the rivers that provide the waters for the city of New York up in the Hudson River Valley.

This provides authorization for $15 million for 7 years to be of assistance in that effort.

As I say, this is an amendment by both New York Senators, Senators MOYNIHAN and D'AMATO. I think it is a good amendment, Mr. President.

Mr. D'AMATO. Mr. President, on behalf of myself and Senator MOYNIHAN, I wish to thank Senator CHAFEE and Senator KEMPTHORNE for accepting this crucial amendment—an amendment that will protect the drinking water of 9 million persons.

New York City is home to our Nation's largest unfiltered surface water supply delivering 1.5 billion gallons per day. It is also, arguably, our Nation's best drinking water. To many, it would seem implausible that our Nation's largest city could have such high quality water and not require extensive filtration. However, extensive measures have been taken over the years to ensure the purity of New York City's water.

New York City's watershed actually consists of three distinct geographic areas that cover some 1,900 square miles in 8 counties in New York State—an area approximately the size of Rhode Island. Due to an act of the New York Legislature in 1907, and further amendments in 1953, New York City has been able to regulate activities that affect water quality in the watershed area. This capability caused its share of suspicion among farmers, homeowners, and local elected officials in the upstate watershed. As one might suspect, these individuals did not necessarily appreciate the city having a say as to how they could utilize their land.

With development creeping out of the metropolitan area and into the watershed area, many became concerned about the consequences of such growth on water quality. Echoing that concern, under the auspices of the 1986 Safe Drinking Water Act amendments, the EPA required New York City in 1989 to either further protect the watershed or filter. It was apparent that enhanced protection efforts would be necessary if the water supply for the city was to be preserved without spending billions of dollars to build filtration plants. This set in motion the impetus to negotiate a filtration avoidance plan that would meet the approval of the EPA, provide safe drinking water to New York City residents, and preserve the rights of upstate New Yorkers to prudently utilize their land. Until recently, the ability to balance all of these needs had not proven entirely successful and watershed protection efforts stalled.

In early November, though, New York Governor George Pataki announced what many had thought impossible. In an unprecedented agreement, the State of New York, the city of New York, environmentalists, local elected officials within the watershed and the Environmental Protection Agency all gave their approval to a plan to protect the New York City watershed and avoid large-scale filtration. Under the terms of the agreement, a total of $1.2 billion will be spent by the city of New York over the next 15 years for water quality protection programs while upstate communities will continue to be able to grow and prosper in environmentally responsible ways.

Specifically, the city expects to increase its landholdings in the watershed threefold spending a minimum of $260 million for purchases in the most sensitive areas from willing sellers. Also, the city will spend close to $400 million on water quality protection programs in the watershed communities in addition to the programs required to be undertaken by EPA for the city to avoid filtration. Also, a new regional watershed council will be created to serve in an advisory role. The city will continue its plans to spend over $600 million in already committed funds to build a filtration plant for the Croton watershed. Finally, the New York State Department of Health will approve and promulgate new watershed regulations to replace the existing outdated regulations.

By undertaking these activities, the city of New York will avoid the construction of a filtration system for the Catskill/Delaware watershed costing upwards of $8 billion. The construction of such massive filtration plants would have likely dramatically increased water payments for each household in New York City.

While this historic agreement will lay the groundwork for the protection of New York's watershed, it will only be successful if effective and sophisticated monitoring is in place. It would not be fiscally wise to spend over $1 billion without an ability to determine whether the protection efforts are working.

To address this concern, Senator MOYNIHAN and I have offered this amendment that will allow the EPA to spend up to $15 million per year for 7 years in the State of New York in order to monitor and implement a host of watershed protection programs in the New York City watershed. Some of the projects that will be undertaken and in need of Federal assistance are: a phosphorus offset program designed to reduce the total amount of phosphorus in sensitive watershed basins; wastewater diversion; wastewater micro-filtration treatment; enhanced stormwater control activities; and agricultural and forestry best management practices. Federal funding could be utilized for up to 35 percent of a project's total cost. Should water quality decline, the EPA will have the ability to demand appropriate changes.

Our amendment is a perfect complement to the efforts being undertaken in New York State to protect the watershed in a scientifically sound and fiscally responsible manner. Under our amendment, scientists will be better able to monitor the quality of the drinking water of some 9 million people and prevent degradation of this vital watershed before it becomes a matter of concern. This will be able to be done at a spend-out rate of $12 to every $1 spent by the Federal Government.

I am pleased that the managers of this bill agree with the need to protect this precious resource. With the passage of this amendment, the State of

New York will be given an opportunity to further protect its valuable watershed. I am confident that the efforts undertaken in New York will be able to serve as a model for similar activities in other parts of the country.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from Rhode Island.

The amendment (No. 3077) was agreed to.

Mr. CHAFEE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

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

The motion to lay on the table was agreed to.

Mrs. MURRAY addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

Mrs. MURRAY. Mr. President, the bill we have before us provides an excellent example of how good people, working together, can find a way to balance safety and cost concerns. I commend the bipartisan effort that developed the Safe Drinking Water Amendments Act of 1995. I also rise to thank these same chairmen and ranking members for agreeing to the amendment that Senator GORTON and I proposed regarding the city of Seattle's water supply that was approved earlier today.

Safe drinking water is probably the single most important thing a government can supply its people. This bill, S. 1316, accomplishes that task by giving the Environmental Protection Agency flexibility to set drinking water standards based on peer-reviewed science. It encourages State and local governments to become full partners in the development, implementation, and enforcement of drinking water regulations. It targets our scarce public resources toward greater health risks and away from more trivial risks.

S. 1316 will be particularly helpful for small systems serving fewer than 10,000 people. These small systems will be eligible for variances that allow them to use affordable treatment technology. While regulators may grant variances, S. 1316 also authorizes consumers to participate in the decision to grant a variance and requires variance renewals every 5 years. I have heard from many small communities about how burdensome the current Safe Drinking Water Act requirements are. I share their enthusiasm for the flexibility and innovation contained in this bill.

I also want to draw my colleagues' attention to the amendment Senator GORTON and I proposed regarding the city of Seattle water supply. With our amendment, Seattle will be able to provide its customers safer water, at a lower cost, and with a better taste than it could have under current filtration requirements. Our amendment will allow local governments that have undeveloped watersheds with a consolidated ownership to use a process other than filtration if that alternative ensures significantly greater removal of pathogens.

The Seattle Water Department has concluded that ozonation, a process commonly used in Europe, may provide 100 times more protection from Cryptosporidium and other pathogens than would a filtration system. Should ozonation deliver as much protection as it promises, the people of Seattle will have safer water and will pay $130 million less for that safety than they would have had to pay for a Cedar River watershed filtration system.

Mr. President, like all bills that pass through the process of compromise and negotiation, S. 1316 is not perfect. However, it is a good bill that goes a long way toward solving some of the more troublesome aspects of the current Safe Drinking Water Act. This bill offers responsible reform, flexibility, and balance. I have heard from a number of local governments urging my full support of this bill. I intend to offer that support, while at the same time voting in favor of stronger right-to-know provisions.

Again, I thank the chairmen and ranking members for their hard work on this bill and for accepting Sen. GORTON's and my amendment.

SEATTLE'S WATER SUPPLY

Mr. President, I rise in support of the Safe Drinking Water Amendments Act of 1995 and commend the managers on their excellent work. In addition, I would like to address the amendment that Senator GORTON and I proposed, which was accepted as a managers' amendment, that will provide the people of the city of Seattle with quality drinking water at an affordable price. Like this bill before us, our amendment seeks to protect our citizens from unnecessary costs while providing safe, high quality drinking water.

Our amendment requires the EPA to amend its drinking water protection criteria to allow a State to establish treatment requirements other than filtration where a watershed is uninhabited, has consolidated ownership and has controlled access. Our amendment allows an alternative to filtration where EPA determines that the quality of the source water and alternative treatment requirements established by the State ensure significantly greater pathogen removal efficiencies than would a combination of filtration and chlorine disinfection.

Mr. President, the Cedar River watershed is unique. The city of Seattle will own 100 percent of this 90,490 acre watershed by the end of the year. The city controls access to and activity in this watershed. It practices model land stewardship, supplying a wide variety of public values, including healthy populations of wildlife. In short, it is a crown jewel. It is the type of water supply all major cities should aspire to have.

The watershed met all of the criteria for remaining an unfiltered supplier for the first 18 months after passage of the SDWA amendments of 1986. However, because of a severe drought and an abundance of wildlife, the watershed exceeded one of the unfiltered water criteria, that of fecal coliform. After receiving notification of noncompliance, the Seattle Water Department began investigating filtration and nonfiltration systems to ensure it would satisfy requirements of the SDWA.

The water department discovered that a process widely used in Europe, called ozonation, would reliably remove more cryptosporidium and giardia—the pathogens of most concern—than would filtration. An ozonation facility would inactivate 99.999 percent of cryptosporidium, while filtration would inactivate only 99.9 percent. In simple terms, ozonation can be economically designed to provide two orders of magnitude, or 100 times greater protection than filtration. Not only is ozonation more effective against the most serious threats to the Seattle water supply, but it costs less and makes the water taste better.

The Seattle Water Department's studies indicate that an ozonation plant would cost its customers $68 million, while a filtration plant would cost $198 million. While Seattle water officials believe that the Cedar River water may require filtration sometime in the future, the system has a number of other more pressing needs—such as covering open, in-city reservoirs and installing a filtration plant in the Tolt River watershed—that make ozonation the best course for today. The ozonation plant will be built in such a way as to be compatible with a filtration plant should the need for one arise in the future.

Mr. President, this amendment offers the city of Seattle needed flexibility so that it can provide its customers the safest water at the lowest cost in the very near future. It is worth re-stating that this filtration flexibility may be given only where a watershed is undeveloped and, most importantly, the alternative to filtration proves to ensure significantly greater pathogen removal efficiencies. Delivering safe drinking water is the fundamental goal of this amendment and this bill.

Again, I thank the bill's managers for their assistance and support on our amendment and in developing the comprehensive, balanced Safe Drinking Water Amendments Act of 1995.

Thank you, Mr. President.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CAMPBELL. 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. CAMPBELL. Mr. President, I ask unanimous consent that I be allowed to speak as if in morning business for 5

minutes without the time being charged to the bill.

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

BOSNIA

Mr. CAMPBELL. Mr. President, I come to the floor of the Senate this evening to address an issue which is of great concern to this Nation and to many of my colleagues—and that is Bosnia. This past Monday, the President took his proposal to the American people and he appears to have listened to the majority of Americans by coming forward and stating his case for the United States' involvement in Bosnia.

Although the President was wise to come to the American people, I like many of my colleagues, cannot support the President's decision to send troops because I do not know that he has fully explained what ''American values'' are at stake in Bosnia.

In my home State of Colorado, I have five offices. Without exception, the phones have been ringing and my constituents have been voicing their concerns, their fears, their anger, and their opposition to the President's proposal. Today they see no threat to our national security or to our way of life, although they do have great empathy for the people in Bosnia.

Bosnia has proven to be a quagmire time and time again. I, like many of my colleagues, do not want to see our troops placed in harm's way in this region. We surely do not want to repeat the problems that we had in either Vietnam or Somalia.

I believe the new-found peace in Bosnia is untenable and cannot be guaranteed. I believe there are 120,000 Serbs over there who basically said the same thing.

It is foolish for us to believe that there will not be mission changes during our proposed 12-month involvement in the region. The environment in Bosnia will continue to change as time goes on, and we cannot predict what will be asked of us during the next 12 months. What starts out to be a peacekeeping mission will certainly became a nation-rebuilding mission at the expense of the American taxpayers.

I do not believe the President fully appreciates the fact that you cannot, under the best of circumstances, give a definitive end date for involvement in that military mission.

By nature, military missions are unpredictable. We have no way to determine how long it will take before peace is freestanding in the region. In 12 months, the Bosnian peace may be at a pivotal stage so that we cannot pull out, we cannot bring our troops home, and that is what I fear the most.

That region has a history of internal struggles. The country is torn and has always been torn by deeply held religious beliefs, and we cannot socially engineer a peace. Peace will never come easily to this region, and there are still those today who oppose the agreement.

I am most concerned that the United States will be making up 30 percent of the NATO force in addition to all of the air support and the logistics of the mission. This is far more than any of the other 15 NATO members. As a result, we will also be contributing a large part of the funds for this mission. In this time of fiscal restraint of asking everyone to do more with less, I cannot understand how the President can ask us to ante up for this commitment, continue to insist on increased levels of domestic spending, and still work to balance the budget in 7 years as he has indicated he would.

I support our treaty obligations to NATO. However, in this instance I feel our obligations simply do not outweigh our concerns for our American youngsters that we have to send into harm's way.

We all support the efforts to end the atrocities and suffering. However, I do not believe that we have any vital national security interests in that region, as we did in the Gulf war. I also believe that we have a humanitarian interest in the region, but I do not think the American people solely support the humanitarian rationale as justification for sending our ground troops into Bosnia. Certainly Coloradans do not.

Above all, we cannot afford to forget the reality of the situation we are sending our troops into: A newly founded and untenable peace. In that environment, there will undoubtedly be continued hostilities. I am absolutely convinced that we will have American dead by Christmas, if not by hidden enemy, certainly from one of the 6 million buried mines that still exist.

The parents and families of these Americans we are asking to go to Bosnia are those the Congress and the President must answer to. I believe that we should be most thoughtful before this administration puts us in a position where we might have American youngsters dead by Christmas.

With that, I yield the floor, Mr. President.

SAFE DRINKING WATER ACT AMENDMENTS OF 1995

The Senate continued with the consideration of the bill.

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. I ask unanimous consent that following the use or yielding back of the time on the Boxer amendment, the amendment be laid aside and there be 10 minutes equally divided between the two managers to offer a series of cleared amendments, and following the disposition of those amendments and the expiration of time, the Senate proceed to vote on or in relation to the Boxer amendment, to be followed immediately by third reading and final passage of S. 1316, as amended, all without any intervening action or debate.

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

Mrs. BOXER. Reserving the right to object, and I shall not, I just want to make sure, since there will be intervening discussion between the explanation of my amendment and the vote, I ask that we could have a minute on each side just before the vote to restate it.

Mr. CHAFEE. I say this to the distinguished Senator. If we are going to vote and people know we are going to go to final passage right after this, frankly, if we have nothing to do, no cleared amendments, I see no reason that there even would be 10 minutes. So let us see how it works out. I will say this to the Senator. If there is a long intervening time, I will make sure she gets a minute to explain her amendment.

Mrs. BOXER. That is all I need. I will certainly trust my chairman, whom I respect very much, as I respect the ranking member and subcommittee chair. And if the Senators want, I can send up the amendment and we can start the clock running on the 15 minutes per side.

Mr. CHAFEE. All ready to go. I thank the Senator.

AMENDMENT NO. 3078

Mrs. BOXER. Mr. President, under the previous order, 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 California [Mrs. BOXER] proposes an amendment numbered 3078.

Mrs. BOXER. 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:

Section 20, Page 140, line 11—add at the end the following new subparagraph:

(F) CONSUMER CONFIDENCE REPORTS.—

(i) IN GENERAL.—The Administrator shall issue regulations within three years of enactment of the Safe Drinking Water Act Amendments of 1995 to require each community water system to issue a consumer confidence report at least once annually to its water consumers on the level of contaminants in the drinking water purveyed by that system which pose a potential risk to human health. The report shall include, but not be limited to: information on source, content, and quality of water purveyed; a plainly worded explanation of the health implications of contaminants relative to national primary drinking water regulations or health advisories; information on compliance with national primary drinking water regulations; and information on priority unregulated contaminants to the extent that testing methods and health effects information are available (including levels of cryptosporidium and radon where States determine that they may be found).

(ii) COVERAGE.—Subsection (i) shall not apply to community water systems serving fewer than 10,000 persons or other systems as determined by the Governor, provided that such systems inform their customers that they will not be complying with Subsection (i). The State may by rule establish alternative requirements with respect to the form and content of consumer confidence reports.

Mrs. BOXER. Mr. President, we have a very good bill before us. I for one am just delighted to see it come here. It has been very bipartisan. I commend the chairman, the ranking member, Senator KEMPTHORNE, and Senator REID, all of whom have worked so hard on this bill. I am particularly pleased, being a member of the Environment and Public Works Committee, that my biggest priority was taken care of in this bill, which involved assurance that our drinking water will protect the most vulnerable populations.

I had an amendment that did carry on this bill the last time it came before the body, and basically it makes sure that children, infants, pregnant women, and the chronically ill are not overlooked when we set standards. We know that more than 100 people who died as a result of drinking water in Milwaukee last year were from vulnerable groups such as children, the elderly, transplant patients, and AIDS patients. About 400,000 people in Milwaukee got sick as a result of contaminated drinking water. We hear very large numbers coming out of CDC, The Centers for Disease Control. One report that says 900 people die from contaminated tap water every year.

So, Mr. President, this is an important bill, and I am proud that we are here at this moment. I would also like to thank Senators CHAFEE and BAUCUS for agreeing to my amendment to authorize the Southwest Center for Environmental Research and Policy. It is very important. It is a consortium of American and Mexican universities that work to address environmental problems along the United States-Mexico border, including but not limited to air quality, water quality, and hazardous materials, and it is important to a lot of our States. San Diego State University is involved in it, New Mexico State University, University of Utah, University of Texas, Arizona State University as well. So that is my praise for this bill.

Mr. President, I think we need to do more. I think we should do more. I am very proud that the Democratic leader, Senator DASCHLE, has joined me in offering this community right-to-know amendment. It is supported by over 60 environmental groups and the Environmental Protection Agency, and I will at the end of my remarks ask that the EPA's letter be included in the RECORD so everyone can see it.

The American Public Health Association, League of Conservation Voters, Consumer Federation of America, League of Women Voters, Physicians for Social Responsibility, the Natural Resources Defense Council, the Sierra Club, the American Baptist Church, the United Methodist Board of Churches Society all support the Boxer-Daschle amendment.

Frankly, I am at a loss to understand why we do not just make this happen. I have great respect for my leaders on the committee. Perhaps they have negotiated a compromise they feel they do not want to disturb. But I cannot back off in terms of presenting it because I feel strongly about it. I believe the community has a right to know what is in the drinking water.

Mr. President, 89 percent of the American people are asking for this. They want more information about the quality of their drinking water.

It would ensure that consumers are informed about the levels of contaminants found in their drinking water once a year through the mail in an easy-to-understand explanation of what is in their water and what the health risks are, if any.

Mr. President, I ask that you let me know when I have used up 10 minutes of my 15 minutes of time.

The PRESIDING OFFICER. The Chair informs the Senator that the times were divided 20 minutes per side, not 15 minutes.

Does the Senator wish to be informed at 10 minutes remaining?

Mr. BAUCUS addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, I know, although the earlier agreement was 20 minutes on a side formally, we have agreed to 15 minutes. It may be presumptuous of me, but I ask unanimous consent that the earlier unanimous-consent agreement be modified so it is 15 minutes per side.

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

Mrs. BOXER. Mr. President, I ask that the Chair inform me when I have used 10 minutes.

What is very important about this community right-to-know amendment is that we exempt small water systems that serve 10,000 persons or less. So we are mindful of not putting a burden on the small systems. We also allow the Governor to opt out as long as he explains why.

This is a national bill. Safe drinking water is a national priority; otherwise, we would not be here. So the argument that we should not tell the Governors what to do just does not fly. We are telling water systems what to do, we are setting safety levels, and all this does is say, ''Let's also let the consumers know.''

My amendment requires EPA to issue regulations within 3 years that would govern the implementation of this. The reason is, we want it to be very simple. The objective of the Boxer-Daschle amendment is not to inflict consumers with a complex table of chemicals they never heard of, nor to scare consumers about the quality of their water, but to let them know what they need to know.

Let me be specific. I have a new grandchild, and that grandchild is the most precious thing to me and to his family. When that grandchild visits Washington, DC, I am not sure if I should mix that formula with the tap water, because there has been an advisory of late to be careful.

I think it is important for people to know if they should, in fact, mix that formula with tap water. They should know, if they are concerned about an elderly person, whether the water is safe. I heard colleagues say, ''Oh, it is too much information for people; too much. We don't want to load them down with pages of information.''

Here is one report, a terrific one that comes out of Ohio where they show people what causes cloudy water, what causes rusty water. In other words, when you send out these things, it is an opportunity to put people's minds at ease. It is not just a question of frightening them. Is there lead in my drinking water? And then they show where the various plants are located, where the water comes from and the various chemicals that are in the water.

So if someone does have someone living with them who is part of a vulnerable population—be it an infant, be it a child under 6, be it a grandma, a grandpa who has some problem, be it a cancer victim, be it an AIDS victim—we would have an opportunity to know if, in fact, that water could harm them.

We have over 60 public interest, environmental, and public health groups supporting us, and I gave you just a few of those, and we will put the rest into the RECORD.

But I do believe that the Boxer-Daschle amendment will also benefit water suppliers because it will increase consumer awareness of how their local water system performs and what challenges that system faces as it tries to maintain water quality.

We have a water board in our home county, and they come to us once in a while and say, ''You know, we have to increase your water rates.''

''Why?''

If I know it is to make that water safer, if it is to make sure contaminants are taken out of the water, that is a plus for that water district, and there will be more support.

Currently, consumers are required to be notified only if a water supplier violates an enforceable standard. Consumers do not have to be told if their tap water contains common contaminants which are not regulated, such as cryptosporidium and radioactive radon. We know cryptosporidium kills people. We do not happen to have a standard established for cryptosporidium. Does that mean we should not let people know if it is in their water supply?

I certainly hope people will support this amendment because then consumers will know if cryptosporidium is in their water supply, at what level, and whether it is dangerous. And if they have a little child in the home or someone from a vulnerable population, they can act accordingly.

In the case of arsenic, an EPA-regulated contaminant, the current standard is being revised by the EPA because it is a weak standard that was set in 1942 before we knew that arsenic caused cancer. In the bill we are considering, the EPA will not have to issue a revised standard until the year 2001 and no enforceable standard until

2004. I believe consumers have a right to know whether or not the water they drink contains arsenic at levels that could be a potential risk to their health.

Why not let consumers know? Why treat people like they do not deserve to know or they will misuse the information? We are all adults. We deserve to know. We are paying money for that water. We ought to know what it contains.

Under current law, not even a crisis, an outbreak such as the 1993 Milwaukee cryptosporidium outbreak which killed over 100 people, not even a crisis forces water systems to warn consumers about the presence of dangerous levels of unregulated contaminants.

The PRESIDING OFFICER (Ms. SNOWE). The Senator from California has 5 minutes.

Mrs. BOXER. Thank you, Madam President. I am going to withhold because I know my colleagues are going to make some terrific arguments against me, and I want to be ready to combat them, so I retain my time.

Mr. KEMPTHORNE addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. KEMPTHORNE. Madam President, I, unfortunately, must oppose this amendment, although I do appreciate the efforts of the Senator from California to work with the concerns that I had expressed on this. I truly do appreciate that.

I do not oppose this amendment because I believe that consumers should not have access to information about the safety of the tap water that they drink. Our bill already requires drinking water systems to give information to consumers of any health threats presented by drinking water and of any violations. These provisions ensure that consumers have access to information that they need to protect themselves, if that is necessary.

Let me just state for you, Madam President, what the bill specifically provides.

First, each water system is required to notify their customers within 24 hours of any violation of a drinking water standard that results in an immediate health concern.

Second, for all other violations of Federal drinking water standards and requirements, public water systems are required to notify their customers of those violations as soon as possible but within 1 year of the violation.

Third, and finally, the State and EPA are required to publish an annual report disclosing all violations by drinking water systems in the State. That report also must be made available to the public.

As has been pointed out, the State of California has in its system already a program very similar to what the Senator from California has discussed. Therefore, there is nothing to preclude a State from doing exactly what the Senator from California is saying she feels should be done, but it ought to be left to the prerogative of the States.

California has chosen to do so. There may be other States that will choose to do so, but why in the world should we have the Federal Government say that you must do this? We spent quite a bit of time earlier today talking about unfunded Federal mandates. We took S. 1316 and gave it to the Congressional Budget Office and said, ''Please review this and score this and determine if, in any way, we are providing any new unfunded Federal mandates.'' Their letter came back and said, ''No, you are not.''

But with regard to this particular amendment, the Senator from California also sent to the Congressional Budget Office a question as to how much would it cost. The Congressional Budget Office came back and said the requirement nationwide would be between $1.5 to $10 million annually. That is an unfunded Federal mandate, and the $1.5 to $10 million annually could be used in tremendous opportunities by some of the small systems to achieve the standards that are necessary for the public health that we are trying to improve.

So for those reasons, Madam President, I respectfully have to oppose this amendment. I yield the floor.

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Madam President, I am always very, very reluctant to oppose any amendment by the distinguished Californian who is a member of our Environment and Public Works Committee, a very able member of that committee and contributes a great deal. So it is with some trepidation that I rise to differ with her views on this particular amendment.

It seems to me that this is not a necessary amendment, and, frankly, I do not think we should be adopting amendments that do not seem to have a necessity to them.

Now, as has been pointed out, in the legislation we have submitted, S. 1316, if one looks at the report of the committee on page 136, it starts setting forth there what are the requirements that we have regarding notice. And indeed, on page 137, under (D)(1), ''Regulations issued under subparagraph (a) shall specify notification procedures for violations, other than the violations covered by subparagraph (c), and the procedures specify that a public water system shall provide written notice to each person served by the system by notice in the first bill prepared after the date of occurrence.''

In other words, if there is a violation of the law, then it is required that notice be given. I think that is adequate. Madam President, as the distinguished chairman of the subcommittee, Senator KEMPTHORNE, just pointed out, there is a system for not only this notification, but if we want a more broad notification, then go ahead and do it. The States can pass such a law.

Indeed, let me just demonstrate here, if I might, a two-sided piece of paper which is, I suppose, something like 14 inches long, issued by the State of Maryland, pursuant to Maryland law, by the Patuxent and Potomac Water Filtration Plants. It is just unintelligible. I think this is what everybody is going to receive. Let me give an illustration. It says down here, ''1-1, dichlorothane; 1-3, dichloropropane.'' That goes on to say that it deals with a number of micrograms per liter. It is not detected, it says, in Patuxent and in Potomac. Again, ''maximum monthly averages not detected.'' And it goes on to say that there is no limit established up or down by EPA on this.

In other words, apparently, the Maryland law is that there must be close to 80 substances or potential contaminants that have to be notified. Anybody that receives this—99.9 percent of the people that receive it must say, ''What is this?'' and dispose of it in the wastebasket.

It seems to me that it is really an unnecessary expenditure. So, Madam President, I reluctantly oppose the amendment by the Senator from California on the basis that if some State wants it, go ahead and do it. That is their business. If they do not want to do it, then we have some protective provisions in the current law, as I have previously pointed out.

Mr. BAUCUS. Madam President, how much time is remaining on each side?

The PRESIDING OFFICER. The Senator has 8 minutes remaining.

Mr. BAUCUS. Madam President, I will take 4 minutes. All of us greatly admire the Senator from California. I do not know any Senator, frankly, who is a stronger advocate for environmental protection than the Senator from California. She is very persistent and perceptive in her efforts to protect the environment. She has already said—and I think most Senators agree—that the bill before us is a very good safe drinking water bill. It sets very good—more than good, excellent standards—that apply to States around the country as they direct their systems to comply with certain standards and contaminant levels and so forth.

The amendment the Senator from California offers, I think, goes too far. Essentially, it says that what California is doing, issuing reports to each consumer with respect to a whole lot of information, now must apply to all States; that is, the Federal Government must adopt the same requirement. It is regulatory overkill.

Let me very briefly indicate some of the specifics that this amendment would require systems to provide to consumers. It would require reporting the source—I do not know whether this means groundwater, rivers, or whatever. It requires reporting on content, that could be most anything. The quality of the water requirement is vague. A multiworded explanation of the health implications of contaminants relative to national primary drinking water regulations is required. Even though the State and the system may

be meeting all the standards, still consumers have to be notified as to the health implications of those contaminants—even though regulated. I am just touching the tip of the iceberg listing the requirements that must be given to consumers. The long and short of it is, if California or any State wants to, according to its own law, require a whole host of information about what the water contains, even though the system is meeting all the standards required by law, then let that State make that decision.

One reason we are here today writing this bill and making amendments to the Safe Drinking Water Act is because, under the 1986 amendments to the act, we unfortunately required systems, States, and the EPA to do way too much, to dilute its resources pursuing a lot of different efforts, instead of concentrating on the most egregious contaminants and problems and focusing priorities on the problems a system should meet to make sure the water is as pure as can be for the consumers.

If systems do what this amendment proposes, it would further dilute and distract resources. Systems would have to spend a lot of time trying to figure out what all this is, even though they are doing what is required of them and meeting the law.

I urge Senators to look and see what is in this amendment. I think they will realize that we should not be requiring all States to do something that one State may want to do. If a State chooses to do so, fine. This does not limit States from taking these actions. I do not think we should require all this additional information which, as the Senator from Rhode Island pointed out, is not going to be read. I know the interest groups will do a good job of filing lawsuits and doing whatever they want to do if a State system is not meeting standards. They should. I take my hat off to them. But we should not go overboard with a lot of red tape and bombard people with information they are not even going to read.

Mr. LAUTENBERG. Madam President, as the author the community right-to-know law that requires notification of the public of releases of toxics into the environment, I rise in support of the amendment of the Senator from California, Senator BOXER.

This amendment requires local water providers to notify their customers at least annually of the quality of their drinking water so they can properly monitor the water for possible health effects.

Madam President, shining the light on the behavior of corporations and governments has repeatedly led to significant environmental advances. When accidents, or discharges, or violations must be reported to the customers, quality improves. This has been proven dramatically in the case of the community right-to-know legislation.

The right-to-know law does not require a company to lower its use or emissions of any chemical one ounce. The right-to-know law was intended to notify neighbors about chemicals that were being discharged. Companies did not like the bad publicity.

In addition, the law brought to the attention of corporate executives the fact that expensive chemicals were leaving their facilities as waste, not product. In response to these reports, companies voluntarily instituted pollution prevention measures that have lowered toxic releases tremendously. Emissions from facilities have decreased 42 percent nationwide since 1989; a reduction of two billion pounds.

Virtually none of those reductions were required by federal law; they were voluntarily done by companies who found a better way to do business, encouraged by this law.

Senator BOXER's amendment is likely to have similar, positive effects. It will mean cleaner drinking water for consumers. It also will give individual Americans complete information about the quality and safety of their drinking water. This will allow consumers to decide for themselves whether they want to buy bottled water, or take other steps to protect themselves from unhealthy drinking water.

I urge support for this amendment.

Mrs. BOXER. I thank the Senator from New Jersey; he is the author of the community right-to-know law that requires notification to the public of releases of toxics in the environment. He strongly backs this amendment. He says, ''This will allow consumers to decide for themselves whether they want to buy bottled water, or take other steps to protect themselves.'' This is life and death, Madam President.

Madam President, has all time expired on the other side?

The PRESIDING OFFICER. There is 3 minutes 30 seconds remaining.

Mrs. BOXER. I would appreciate it if they will take their time so I can finish the debate. It is my amendment.

Mr. BAUCUS. Madam President, how much time remains on each side?

The PRESIDING OFFICER. The Senator from California has 5 minutes. The Senator from Rhode Island has 3 minutes 30 seconds.

Mrs. BOXER. I will retain 1 minute of my time, and I will speak for 4 minutes. First of all, I think the comments made by my colleagues are terrific, but they are not right.

Madam President, I have to make a number of points here. My colleague from Montana says, oh, what does this mean, and he holds up this amendment. This has been in operation in California for 6 years. Nobody ever asks what does it mean. Everyone thinks it is terrific, and everybody understands what it means.

In addition, we worked with the EPA because they had constructive suggestions. They worked with us on every word of this amendment.

My friend from Idaho makes a point that I would like to address. He says, ''My God, we go a long way in this bill. You have to be told there is a violation if your water standard is in violation of the law.''

I have to point out to my friend that in 1993 the GAO did a very important report entitled ''Consumers Often Not Well-Informed of Potentially Serious Violations in their Water Supply.'' They concluded that 63 percent of violations were not reported at all. Of these, over half of the violations posed serious long-term health risks such as long-term cancer risk.

Now, that is GAO. That is not some environmental organization. That is an investigative arm of the Congress. The fact is, these violations more than half the time are not reported. I do not want to wait for there to be an outbreak of cryptosporidium and people die and then we notify them, ''Boil your water.''

I think people have a right to know on a regular basis what is in their water. I do not think it is in any way encroaching.

We are so clear: Systems that serve 10,000 persons or less are exempted from this. Governors can opt out by explaining why. And the cost, if you take the maximum cost, is 23 cents per household per year. Madam President, 23 cents per year to know if there is cryptosporidium in your water.

Just talk to someone who lost a loved one from cryptosporidium in the water supply. Would it be worth 23 cents a year? And, by the way, the Governor can opt out. So there is no unfunded mandate if the Governor can opt out.

The American Public Health Association wants to see this amendment become the law of the land. This is not extreme. This is a national safe drinking water act. National standards are set. We should be standing up here for the consumer, for taxpayers, for that water user who pays for that water, to have the information they need to keep their families safe.

The first time there is an outbreak of cryptosporidium, people will rush to this floor and say, ''BOXER was right,'' and so was Senator DASCHLE because he happens to be the lead cosponsor, and Senator LAUTENBERG who spent so much of his career making sure consumers have the right to know if there are toxins in our environment.

I would like to add Senator KOHL as a cosponsor.

Mr. CHAFEE. Madam President, let me just say this to the very able arguments of the Senator from California. They are able arguments.

I suppose that when she makes the point that the Governor can opt out or that it does not apply to those systems of 10,000 or less that it works the other way around.

If this is such a vital amendment and so necessary, why do we have it that a Governor can just opt out of it? Or if it is so important, why do we exclude 87 percent of the water systems in the Nation? Madam President, 87 percent of the water systems in the Nation serve 10,000 or fewer people.

That is not to say that 87 percent of the population is served by that. I am not making that suggestion. But 87 percent of all the water systems in the Nation are small ones. They are exempt from this bill.

Madam President, I say this is a good piece of legislation. One of the things we have done here is to provide money to train the operators of these systems to be better. We have provided for better technical assistance than previously existed. We encourage consolidations.

I think we have done a lot of things to improve the safety of the water that the users drink, in addition to the provisions that I have previously mentioned that deal specifically with notification in case the water is not safe.

I do appreciate the arguments of the distinguished Senator.

The PRESIDING OFFICER. The Senator from Rhode Island has 1 minute and 43 seconds remaining.

Mr. BAUCUS. Madam President, the Senator from California makes a very impassioned statement. It sounds very good.

The facts are, very simply, if California or if any State wants to go far above and beyond what is required by Federal law, I think it makes sense for that State to do so if that State wants to do so. I do not think the Federal Government should make this additional requirement on all States just because California is doing it. If California wants to, fine. But the U.S. Congress should not make a judgment as to whether an additional requirement to each individual consumer, which has no bearing whatever to whether the systems in a State meet standards. If the State wants to, fine. I do not think the Federal Government should make that requirement on all States.

Mr. CHAFEE. We yield back the balance.

Mrs. BOXER. Madam President, I will finish. When anyone does not like an argument, they tell you you are emotional. Let me just say the American Public Health Association is not emotional about this. They just say, ''We need to know. We need to know what is in our water supply.''

I say to my friend from Rhode Island, the distinguished and able chairman, for whom I have the greatest respect, that 83 percent of the American people will be covered by this Boxer amendment because they are served by the larger water systems.

To those who oppose this amendment, I ask, suppose that your loved one is elderly or ill, has a compromised immune system because of cancer, chemotherapy, a recent transplant, or for other reasons, or there is a little baby in the house that you are mixing that formula with water from the tap, suppose you knew your water supplier knew all along there was a level of cryptosporidium in the water but never told you, because in 63 percent of the cases, the GAO says they do not report violations.

That is not emotion. That is fact. The GAO study found 63 percent of the violations are not reported. I make sure if cryptosporidium is in your water system, you would know whether you live in Maine or California or Montana or Rhode Island or South Carolina.

I hope that people will vote against the motion to table, which I assume is on its way. I yield the floor.

The PRESIDING OFFICER. All time has expired.

Mr. CHAFEE. Madam President, I move to table the amendment of the distinguished Senator from California, 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 are ordered.

Mr. CHAFEE. It is my understanding we have 10 minutes equally divided to wrap up amendments or statements before we go to the vote.

AMENDMENT NO. 3079

(Purpose: To provide that monitoring requirements imposed on a substantial number of public water systems be established by regulation)

Mr. CHAFEE. I have one last amendment, Madam President, that I send to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Rhode Island [Mr. CHAFEE], for himself, Mr. KEMPTHORNE, Mr. BAUCUS, and Mr. REID, proposes an amendment numbered 3079.

Mr. CHAFEE. Madam President, I ask unanimous consent reading of the amendment be dispensed with.

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

The amendment is as follows:

On page 132, line 5, strike ''methods.'' and insert ''methods. Information requirements imposed by the Administrator pursuant to the authority of this subparagraph that require monitoring, the establishment or maintenance of records or reporting, by a substantial number of public water systems (determined in the sole discretion of the administrator), shall be established by regulation as provided in clause (ii).''.

Mr. CHAFEE. Madam President, this amendment tightens up EPA's information-gathering authorities under the law. The amendment would require EPA to impose new monitoring reporting or record-keeping requirements only by rule of a public comment if those requirements would effect a substantial number of public water systems.

This amendment has been cleared on both sides. We are prepared to adopt it.

The PRESIDING OFFICER. Is there any further debate?

The question is on agreeing to the amendment.

The amendment (No. 3079) was agreed to.

Mr. CHAFEE. I move to reconsider the vote.

Mr. BAUCUS. I move to lay it on the table.

The motion to lay on the table was agreed to.

SOURCE WATER PROTECTION

Mr. KOHL. Madam President, as all the managers of this bill are acutely aware, an emergency outbreak of the parasite cryptosporidium in Milwaukee in 1993 resulted in the deaths of over 100 citizens and caused nearly 400,000 others to become severely ill. I believe that many provisions included in this legislation will be helpful in protecting future generations from the threat of cryptosporidium and other microbial contaminants, and I thank the managers for that.

Certainly the Milwaukee outbreak has demonstrated the need for strong source water protection programs. In fact, the State of Wisconsin has one of the most respected sources water protection programs in the Nation. However, even with that program, the Milwaukee cryptosporidium outbreak occurred. Although the Wisconsin Priority Watershed Program is primarily a voluntary program, working in a cooperative manner with landowners in targeted watersheds, the program does have the authority to enforce against the small minority of landowners in a targeted watershed who refuse to cooperate with the commonsense conservation efforts of their neighbors.

While I know that it is the intention of the managers to create a new, Source Water Quality Protection Partnership Program which is voluntary in nature, I want to be able to assure the citizens of my State that the Wisconsin Priority Watershed Program will not be discriminated against in S. 1316, as a result of having an enforcement authority.

Mr. CHAFEE. I completely understand the concerns of the Senator from Wisconsin, and I agree that the Wisconsin Priority Watershed Program is one of the most outstanding water quality programs in this country. In that context, I want to assure the Senator that S. 1316 in no way discriminates against the Wisconsin program, or any other State program, on the basis of that program's enforcement authority. While States choosing to participate in the new Source Water Quality Protection Partnership Program are required to use the voluntary approach, other sections of the bill would provide programs like Wisconsin's Priority Watershed Program access to funding from the State revolving fund. States that choose the Source Water Quality Protection Partnership approach are also authorized to use SRF funding.

Mr. BAUCUS. I concur in the response made by the Senator from Rhode Island. This bill does not discriminate against State or local programs that include enforcement authority, it merely sets up a different framework. Both purely voluntary programs, as well as programs like the Wisconsin Priority Watershed Program, are authorized to use funding from the State's SRF allocation through state administration of a

source water quality protection program.

Mr. KOHL. I thank the managers for this clarification and for working with me on this important matter.

Mr. FEINGOLD. I, too, am pleased that this bill contains a requirement for the development of a national standard for cryptosporidum. Several times this Congress, I have raised the issue that the cryptosporidum outbreaks are no longer Milwaukee's problem, but the country's problem, and that there should be action to ensure that enforceable national requirements are developed. However, relative to the bill's provisions that create a new petition program for voluntary sourcewater protection, I share the concerns of the senior Senator from Wisconsin, [Mr. KOHL].

I want to be certain that Wisconsin is not penalized for the actions it has already taken to protect source water. As mentioned by the senior Senator from Wisconsin [Mr. KOHL] our State's efforts to protect source waters from contaminated runoff centers around the Wisconsin Nonpoint Source Water Pollution Abatement Program, often referred to as the priority watershed program based upon its watershed approach to controlling polluted runoff. The program provides grants to local units of government in urban and rural watersheds, which reimburse up to 70 percent of costs associated with installing best management practices. By the end of 1994, the State has been actively engaged in 67 projects, including 4 large-scale and 3 lake initiatives, and more than 82 large-scale projects are eligible to participate in the program.

Our State's program follows an extensive land use inventory and water resource appraisal process, and public participation is a critical component of the program. By in large participation has been voluntary, but the State does retain the authority to require participation after the protection plan is developed.

I concur in the importance of assuring that this bill allows Wisconsin's current program to access the SRF and appreciate the statements made by the floor managers to that effect.

STAGE I RULEMAKING

Mr. CHAFEE. Madam President, I would like to clarify the application of the new standard setting authorities established by the bill to the stage I rulemaking for disinfectants and disinfection byproducts that EPA has proposed.

The use of chlorine to kill pathogenic organisms in drinking water presents a real challenge. On the one hand, disinfection of public water supplies is a public health miracle. One of the witnesses at our hearings on this bill called it the single most important public health advance in history. On the other hand, the use of chlorine as a disinfectant may produce chemical byproducts in the water that present other health risks.

EPA has proposed a rule for disinfectants and disinfection byproducts that attempts to balance these risks. The proposed rule was developed through a regulatory negotiation that included representatives of local governments, water agencies and water supply districts, and public interest groups. EPA used this approach because current law does not contain explicit authority to balance risks in the way that EPA has proposed to do in this rulemaking. Presumably, one reason for the negotiation was to avoid a subsequent court challenge to the rule.

Now, we are changing the law and we are including explicit authority for the Administrator to take a risk balancing approach where it is appropriate. These changes would authorize EPA to issue the type of rule that has been proposed in stage I for disinfection byproducts. But in passing this bill, we face a delicate legislative task. We want to endorse the risk balancing approach that EPA is taking and make it clear that the statute as amended authorizes such a rule—including the stage I rule—but we don't want these new statutory provisions to disturb the negotiated agreement that is incorporated in the rule that EPA has proposed.

Mr. KEMPTHORNE. I would ask the distinguished chairman of the Environment and Public Works Committee whether the bill would prevent EPA from modifying the proposed rule. If new information indicates that the stage I rule as proposed does not strike an appropriate balance among the competing health risks, could EPA modify the rule when it is promulgated?

Mr. CHAFEE. It is my understanding that the agreement negotiated by the parties to the disinfection byproducts rulemaking does provide that the final stage I rule may include modifications if new information warrants those changes. The bill does not preclude changes that are within the scope of the agreement.

However, these new standard setting authorities are not to be the basis for making changes in the rule as it was proposed, nor was it our intent to require the Administrator to repropose the stage I proposed rule to conduct additional risk balancing under new section 1412(b)(5). However, if subsequent to enactment, someone should discover an inconsistency, the bill specifically precludes a change in the proposed rule to resolve that inconsistency. Furthermore, the bill insulates the rule from a court challenge on the basis of any inconsistency, should one be found. We do not intend to disrupt the results of the negotiation.

Mr. BAUCUS. The committee report at page 38 says that the bill does not apply to the stage I rulemaking because that rule has already been proposed in a detailed form. Does the Senator's statement affect that part of the committee report?

Mr. CHAFEE. Yes. The purpose of this statement is to establish that in one sense the new authority contained in section 1412b(5) does apply to the stage I rulemaking.

As I said, we are attempting a delicate legislative task here. We are changing the statute to provide EPA with explicit authority to set standards that balance risks. But we do not want the detailed provisions of this new authority to upset a specific rule of that type that has recently been proposed. We want to make clear that EPA is authorized by the Safe Drinking Water Act, as it is amended by this bill, to issue the stage I rule. If this bill is enacted and the stage I rule is promulgated as it was proposed, no one could bring a court challenge against the rule on the grounds that it wasn't authorized by the statute.

At the same time, the stage I rule is not to be tested against the specific provisions of the statute to determine whether it is consistent in every respect. it may not be. So long as the final stage I rule stays within the parameters of the agreement negotiated by the parties, it is authorized by the statute as amended.

The bill applies to the stage I rule because EPA is given general authority to issue a rule that is consistent with the negotiated agreement; but the specific provisions of the risk balancing authorities in the new subsection 1412(b)(5) are not to be applied by EPA or by the courts in determining whether the final rule is in accordance with the law. That determination is to be based on the agreement that was signed by the parties to the negotiation.

Nothing in this bill affects the applicability of new subsection 1412(b)(5) to the stage II rulemaking on disinfection by products.

Madam President, that completes everything on this side. I inform all Senators, immediately following the vote on the motion to table the Boxer amendment, we will then go to final passage.

I ask, if proper, for the yeas and nays on final passage at this time.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. CHAFEE. Madam President, the delay here is we are waiting a possible additional colloquy with the distinguished Senator from Nebraska.

Madam President, how much time of the 10 minutes is left?

The PRESIDING OFFICER. There are 5 minutes remaining.

Mr. CHAFEE. If the Senator from California wished that minute, this is the time, if she would like.

AMENDMENT NO. 3078

Mrs. BOXER. Madam President, I will take advantage of that one moment to simply say what we are trying to do in this amendment is to give support to the public health community, which says it is very important. We have the support of EPA and the American Public Health Association, and a number of other organizations, that

consumers have a right to know, just once a year, what is in their water.

It is not something we feel is burdensome. As a matter of fact, we say the EPA has to issue regulations that make it simple. The Democratic leader is supporting this. Senator LAUTENBERG is supporting this. Senator KOHL, whose State had a terrible outbreak of cryptosporidium and lost lives, is supporting it. We think this is extremely reasonable. It is not an unfunded mandate. Governors can opt out of this. Small water systems can opt out of this. The large water systems serve 83 percent of our people.

We think this is a solid amendment and we urge a ''no'' vote on the motion to table.

I yield the remainder of my time.

The PRESIDING OFFICER. There are 4 minutes remaining. Is there further debate?

Mr. CHAFEE. Madam President, while we are preparing several colloquies to submit for the RECORD, I will take this brief opportunity to thank everybody involved. Particularly, I thank the distinguished chairman of the subcommittee, Senator KEMPTHORNE, for his splendid work on this. He has really been a tower of strength and the leader of this whole effort.

Also, I thank the ranking member, Senator BAUCUS, and Senator REID, the ranking member of the subcommittee, and all the staff for their wonderful work. I particularly thank Jimmie Powell on this side, who really was very, very effective.

PUBLIC WATER SYSTEM DEFINITION

Mr. KEMPTHORNE. Some questions have arisen about how section 24(b) of the bill, which amends the definition of public water systems, applies to certain irrigation systems. As the committee report explains, the provision is intended to address a narrow set of situations, such as the one that was involved in the Imperial Irrigation court decision, where an irrigation system is knowingly providing drinking water to a large number of customers. However, it is my understanding that the provision does not apply to irrigation systems that only intend to provide water for such purposes as irrigation and stock watering, and do not intend that water be withdrawn for drinking water use.

Mr. BAUCUS. I agree with Senator KEMPTHORNE's interpretation. In the arid west, where irrigation systems may cover vast distances, it would be unfair and impractical to treat an irrigation system as a public water system just because a number of people withdraw water for drinking water use without the permission or knowledge of the system, and I do not believe that the provision applies to such situations.

Mr. KEMPTHORNE. Does the manager of the bill share this view.

Mr. CHAFEE. Yes. The Safe Drinking Water Act defines a public water system as a system for the provision to the public of piped water for human consumption, if such system has at least 15 service connections or regularly serves at least 25 individuals. In describing a public water system, EPA's regulations and guidance use such terms as ''serves'' and ''delivers,'' usually in the context of ''customers.'' These terms are clearly contrary to a situation where the irrigation system does not either consent to having water withdrawn for human consumption, or know that such withdrawals are occurring with respect to the requisite number of connections or customers.

Mr. KEMPTHORNE. Questions also have arisen about how the new provision would apply to irrigation systems that provide water to municipal drinking water systems, which then treat the water and provide it to customers for human consumption. Would these irrigation systems be treated as public water systems on this basis?

Mr. CHAFEE. No. Under the new provision, a connection is not considered, for purposes of determining whether an entity is a public water system, if the water is treated by a pass-through entity to achieve a level of treatment equivalent to the level provided by applicable drinking water regulations. In the case you describe, the municipal water system would be providing such treatment, and the irrigation system's provision of water to the municipal water system would not be considered a connection.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. KEMPTHORNE. Madam President, I commend the floor manager, Senator CHAFEE, for his efforts, not only during the months that it took us to get here but for his demeanor today on the floor. I also thank Senator BAUCUS, the other floor manager of this very important legislation, and Senator REID, for this legislation that is going to be well received by all the States and municipalities throughout the United States and their constituents.

I thank the staffs of Senator BAUCUS and Senator REID and the staff of Senator CHAFEE: Jimmie Powell and Steve Shimberg; and acknowledge my staff, Meg Hunt, Ann Klee, and Buzz Fawcett, and thank all the Senators who participated today, in their suggestions or debate, for their improvements to the bill.

I look forward to what is about to happen, which is we are going to astound our families by voting on final passage of this at a relatively early hour. Then I suggest all Senators go home, have supper with their families, and raise a toast of safe drinking water to what we have accomplished today.

Mr. CHAFEE. We have no need for further time, Madam President.

VOTE ON AMENDMENT NO. 3078

The PRESIDING OFFICER. All time has expired.

The question now occurs on the motion to table the amendment offered by the Senator from California, amendment No. 3078.

The yeas and nays have been ordered.

The clerk will call the roll.

The legislative clerk called the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced, yeas 59, nays 40, as follows:

The result was announced—yeas 59, nays 40, as follows:

[Rollcall Vote No. 587 Leg.]

YEAS—59

Abraham	Faircloth	McCain
Ashcroft	Frist	McConnell
Baucus	Gorton	Moynihan
Bennett	Gramm	Murkowski
Bond	Grams	Nickles
Breaux	Grassley	Nunn
Brown	Gregg	Pressler
Bryan	Hatch	Reid
Burns	Hatfield	Roth
Campbell	Helms	Santorum
Chafee	Hutchison	Shelby
Coats	Inhofe	Simpson
Cochran	Johnston	Smith
Coverdell	Kassebaum	Specter
Craig	Kempthorne	Stevens
D'Amato	Kerrey	Thomas
DeWine	Kyl	Thompson
Dole	Lott	Thurmond
Domenici	Lugar	Warner
Exon	Mack	

NAYS—40

Akaka	Ford	Lieberman
Biden	Glenn	Mikulski
Bingaman	Graham	Moseley-Braun
Boxer	Harkin	Murray
Bradley	Heflin	Pell
Bumpers	Hollings	Pryor
Byrd	Inouye	Robb
Cohen	Jeffords	Rockefeller
Conrad	Kennedy	Sarbanes
Daschle	Kerry	Simon
Dodd	Kohl	Snowe
Dorgan	Lautenberg	Wellstone
Feingold	Leahy	
Feinstein	Levin	

So, the motion to lay on the table the amendment (No. 3078) was agreed to.

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

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER (Mrs. HUTCHISON). 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. The bill having been read the third time, the question is, Shall it pass? The yeas and nays have been ordered. The clerk will call the roll.

The result was announced—yeas 99, nays 0, as follows:

[Rollcall Vote No. 588 Leg.]

YEAS—99

Abraham	Bryan	D'Amato
Akaka	Bumpers	Daschle
Ashcroft	Burns	DeWine
Baucus	Byrd	Dodd
Bennett	Campbell	Dole
Biden	Chafee	Domenici
Bingaman	Coats	Dorgan
Bond	Cochran	Exon
Boxer	Cohen	Faircloth
Bradley	Conrad	Feingold
Breaux	Coverdell	Feinstein
Brown	Craig	Ford

Frist	Kennedy	Pell
Glenn	Kerrey	Pressler
Gorton	Kerry	Pryor
Graham	Kohl	Reid
Gramm	Kyl	Robb
Grams	Lautenberg	Rockefeller
Grassley	Leahy	Roth
Gregg	Levin	Santorum
Harkin	Lieberman	Sarbanes
Hatch	Lott	Shelby
Hatfield	Lugar	Simon
Heflin	Mack	Simpson
Helms	McCain	Smith
Hollings	McConnell	Snowe
Hutchison	Mikulski	Specter
Inhofe	Moseley-Braun	Stevens
Inouye	Moynihan	Thomas
Jeffords	Murkowski	Thompson
Johnston	Murray	Thurmond
Kassebaum	Nickles	Warner
Kempthorne	Nunn	Wellstone

So the bill (S. 1316), as amended, was passed.

(The text of the bill will be printed in a future edition of the RECORD.)

Mr. KEMPTHORNE. Madam President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

MORNING BUSINESS

Mr. COATS. Madam President, I ask unanimous consent that there now be a period for morning business.

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

REPORT OF THE AGREEMENT FOR COOPERATION IN THE PEACEFUL USES OF NUCLEAR ENERGY BETWEEN THE UNITED STATES AND THE EUROPEAN ATOMIC ENERGY COMMUNITY—MESSAGE FROM THE PRESIDENT—PM 99

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Foreign Relations.

To the Congress of the United States:

I am pleased to transmit to the Congress, pursuant to sections 123 b. and 123 d. of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2153 (b), (d)), the text of a proposed Agreement for Cooperation in the Peaceful Uses of Nuclear Energy Between the United States of America and the European Atomic Energy Community (EURATOM) with accompanying agreed minute, annexes, and other attachments. (The confidential list of EURATOM storage facilities covered by the Agreement is being transmitted directly to the Senate Foreign Relations Committee and the House International Relations Committee.) I am also pleased to transmit my written approval, authorization and determination concerning the agreement, and the memorandum of the Director of the United States Arms Control and Disarmament Agency with the Nuclear Proliferation Assessment Statement concerning the agreement. The joint memorandum submitted to me by the Secretary of State and the Secretary of Energy, which includes a summary of the provisions of the agreement and other attachments, including the views of the Nuclear Regulatory Commission, is also enclosed.

The proposed new agreement with EURATOM has been negotiated in accordance with the Atomic Energy Act of 1954, as amended by the Nuclear Non-Proliferation Act of 1978 (NNPA) and as otherwise amended. It replaces two existing agreements for peaceful nuclear cooperation with EURATOM, including the 1960 agreement that has served as our primary legal framework for cooperation in recent years and that will expire by its terms on December 31 of this year. The proposed new agreement will provide an updated, comprehensive framework for peaceful nuclear cooperation between the United States and EURATOM, will facilitate such cooperation, and will establish strengthened nonproliferation conditions and controls including all those required by the NNPA. The new agreement provides for the transfer of nonnuclear material, nuclear material, and equipment for both nuclear research and nuclear power purposes. It does not provide for transfers under the agreement of any sensitive nuclear technology (SNT).

The proposed agreement has an initial term of 30 years, and will continue in force indefinitely thereafter in increments of 5 years each until terminated in accordance with its provisions. In the event of termination, key nonproliferation conditions and controls, including guarantees of safeguards, peaceful use and adequate physical protection, and the U.S. right to approve retransfers to third parties, will remain effective with respect to transferred nonnuclear material, nuclear material, and equipment, as well as nuclear material produced through their use. Procedures are also established for determining the survival of additional controls.

The member states of EURATOM and the European Union itself have impeccable nuclear nonproliferation credentials. All EURATOM member states are party to the Treaty on the Non-Proliferation of Nuclear Weapons (NPT). EURATOM and all its nonnuclear weapon state member states have an agreement with the International Atomic Energy Agency (IAEA) for the application of full-scope IAEA safeguards within the respective territories of the nonnuclear weapon states. The two EURATOM nuclear weapon states, France and the United Kingdom, like the United States, have voluntary safeguards agreements with the IAEA. In addition, EURATOM itself applies its own stringent safeguards at all peaceful facilities within the territories of all member states. The United States and EURATOM are of one mind in their unswerving commitment to achieving global nuclear nonproliferation goals. I call the attention of the Congress to the joint U.S.-EURATOM ''Declaration on Non-Proliferation Policy'' appended to the text of the agreement I am transmitting herewith.

The proposed new agreement provides for very stringent controls over certain fuel cycle activities, including enrichment, reprocessing, and alteration in form or content and storage of plutonium and other sensitive nuclear materials. The United States and EURATOM have accepted these controls on a reciprocal basis, not as a sign of either Party's distrust of the other, and not for the purpose of interfering with each other's fuel cycle choices, which are for each Party to determine for itself, but rather as a reflection of their common conviction that the provisions in question represent an important norm for peaceful nuclear commerce.

In view of the strong commitment of EURATOM and its member states to the international nonproliferation regime, the comprehensive nonproliferation commitments they have made, the advanced technological character of the EURATOM civil nuclear program, the long history of extensive transatlantic cooperation in the peaceful uses of nuclear energy without any risk of proliferation, and the fact that all member states are close allies or close friends of the United States, the proposed new agreement provides to EURATOM (and on a reciprocal basis, to the United States) advance, long-term approval for specified enrichment, retransfers, reprocessing, alteration in form or content, and storage of specified nuclear material, and for retransfers of nonnuclear material and equipment. The approval for reprocessing and alteration in form or content may be suspended if either activity ceases to meet the criteria set out in U.S. law, including criteria relating to safeguards and physical protection.

In providing advance, long-term approval for certain nuclear fuel cycle activities, the proposed agreement has features similar to those in several other agreements for cooperation that the United States has entered into subsequent to enactment of the NNPA. These include bilateral U.S. agreements with Japan, Finland, Norway and Sweden. (The U.S. agreements with Finland and Sweden will be automatically terminated upon entry into force of the new U.S.-EURATOM agreement, as Finland and Sweden joined the European Union on January 1, 1995.) Among the documents I am transmitting herewith to the Congress is an analysis by the Secretary of Energy of the advance, long-term approvals contained in the proposed U.S. agreement with EURATOM. The analysis concludes that the approvals meet all requirements of the Atomic Energy Act.

I believe that the proposed agreement for cooperation with EURATOM will make an important contribution to achieving our nonproliferation, trade and other significant foreign policy goals.

In particular, I am convinced that this agreement will strengthen the

international nuclear nonproliferation regime, support of which is a fundamental objective of U.S. national security and foreign policy, by setting a high standard for rigorous nonproliferation conditions and controls.

It will substantially upgrade U.S. controls over nuclear items subject to the current U.S.-EURATOM agreement as well as over future cooperation.

I believe that the new agreement will also demonstrate the U.S. intention to be a reliable nuclear trading partner, and thus help ensure the continuation and, I hope, growth of U.S. civil nuclear exports to EURATOM member states.

I have considered the views and recommendations of the interested agencies in reviewing the proposed agreement and have determined that its performance will promote, and will not constitute an unreasonable risk to, the common defense and security. Accordingly, I have approved the agreement and authorized its execution and urge that the Congress give it favorable consideration.

Because this agreement meets all applicable requirements of the Atomic Energy Act of 1954, as amended, for agreements for peaceful nuclear cooperation, I am transmitting it to the Congress without exempting it from any requirement contained in section 123 a. of that Act. This transmission shall constitute a submittal for purposes of both sections 123 b. and 123 d. of the Atomic Energy Act. The Administration is prepared to begin immediately the consultations with the Senate Foreign Relations and House International Relations Committees as provided in section 123 b. Upon completion of the 30-day continuous session period provided for in section 123 b., the 60-day continuous session period provided for in section 123 d. shall commence.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *November 29, 1995.*

MESSAGES FROM THE HOUSE

At 12:25 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 2519. An act to facilitate contributions to charitable organizations by codifying certain exemptions from the Federal securities laws, and for other purposes.

H.R. 2525. An act to modify the operation of the antitrust laws, and of state laws similar to the antitrust laws, with respect to charitable gift annuities.

The message also announced that the House has passed the following bill, without amendment:

S. 1060. An act to provide for the disclosure of lobbying activities to influence the Federal Government, and for other purposes.

The message further announced that the House has agreed to the concurrent resolution, in which it requests the concurrence of the Senate.

H. Con. Res. 116. Concurrent resolution directing the Secretary of the Senate to make technical corrections in the enrollment of S. 1060.

The message also announced that the House has agreed to the concurrent resolution, without amendment:

S. Con. Res. 33. Concurrent resolution expressing the thanks and good wishes of the American people to the Honorable George M. White on the occasion of his retirement as the Architect of the Capitol.

The message further announced that pursuant to section 2702(a)(1)(B)(vi) of Public Law 101–509, the Clerk appoints Mr. Roger Davidson of Washington, D.C., as a member from private life, to the Advisory Committee on the Records of Congress on the part of the House.

MEASURES PLACED ON THE CALENDAR

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

S. 1432. A bill to amend title II of the Social Security Act to provide for increases in the amounts of allowable earnings under the social security earnings limit for individuals who have attained retirement age, and for other purposes.

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–1627. A communication from the Administrator of the National Aeronautics and Space Administration, transmitting, pursuant to law, notice to use other than full and open competition to negotiate a single prime contract with the United Space Alliance; to the Committee on Commerce, Science, and Transportation.

EC–1628. A communication from the Under Secretary of Defense, transmitting, pursuant to law, the report of four violations of the Antideficiency Act, case number 92–78; to the Committee on Appropriations.

EC–1629. A communication from the Under Secretary of Defense, transmitting, pursuant to law, the report of a violation of the Antideficiency Act, case number 94–08; to the Committee on Appropriations.

EC–1630. A communication from the Secretary of Commerce, transmitting, pursuant to law, the report entitled, ''Imposition of Foreign Policy Export Controls on Specially Designed Implements of Torture and Thumbscrews''; to the Committee on Banking, Housing, and Urban Affairs.

EC–1631. A communication from the Deputy and Acting Chief Executive Officer of the Resolution Trust Corporation, transmitting, pursuant to law, the comprehensive litigation report for the period April 1 to September 30, 1995; to the Committee on Banking, Housing, and Urban Affairs.

EC–1632. A communication from the Director of the Office of Management and Budget, the Executive Office of the President, transmitting, pursuant to law, the report on appropriations legislation within 5 days of enactment; to the Committee on the Budget.

EC–1633. A communication from the Secretary of Transportation, transmitting, pursuant to law, the annual report under the Superfund Amendments and Reauthorization Act of 1986 (SARA) for fiscal year 1995; to the Committee on the Environment and Public Works.

EC–1634. A communication from the Secretary of Transportation, transmitting, pursuant to law, the annual report entitled, ''National Maxium Speed Limit'' for fiscal year 1993; to the Committee on the Environment and Public Works.

EC–1635. A communication from the chairman of the Good Neighbor Environmental Board, transmitting, pursuant to law, the first annual report concerning environmental and infrastructure needs within the States contiguous to Mexico; to the Committee on the Environment and Public Works.

EC–1636. A communication from the Chairman of the Nuclear Regulatory Commission, transmitting, pursuant to law, the report on abnormal occurrences for events at licensed nuclear facilities for the period April 1 to June 30, 1995; to the Committee on Environment and Public Works.

EC–1637. 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.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. PRESSLER, from the Committee on Commerce, Science, and Transportation, with amendments:

S. 1142. A bill to authorize appropriations for the National Oceanic and Atmospheric Administration, and for other purposes (Rept. No. 104–178).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. THURMOND, from the Committee on Armed Services:

Arthur L. Money, of California, to be an Assistant Secretary of the Air Force.

(The above nomination was reported with the recommendation that he be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

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. MCCAIN:

S. 1433. A bill to direct the Secretary of Energy to establish a system for defining the scope of energy research and development projects, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. THOMAS (for himself, Mr. DOLE, Mr. DOMENICI, Mr. SIMPSON, Mrs. KASSEBAUM, Mr. FAIRCLOTH, Mr. THOMPSON, and Mr. COCHRAN):

S. 1434. A bill to amend the Congressional Budget Act of 1974 to provide for a two-year (biennial) budgeting cycle, and for other purposes; to the Committee on the Budget and the Committee on Governmental Affairs, jointly, pursuant to the order of August 4, 1977, with instructions that if one Committee reports, the other Committee has thirty days to report or be discharged.

By Mr. MCCONNELL (for himself and Mr. WARNER):

S. 1435. A bill to grant immunity from personal civil liability, under certain circumstances, to volunteers working on behalf

of non-profit organizations and governmental entities; to the Committee on the Judiciary.

By Mr. LAUTENBERG:

S. 1436. A bill to amend the Federal Water Pollution Control Act to allow certain privately owned public treatment works to be treated as publicly owned treatment works, and for other purposes; to the Committee on Environment and Public Works.

By Mr. THURMOND:

S. 1437. A bill to provide for an increase in funding for the conduct and support of diabetes-related research by the National Institutes of Health; to the Committee on Labor and Human Resources.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. DOLE (for himself, Mr. DASCHLE, Mr. ABRAHAM, Mr. AKAKA, Mr. ASHCROFT, Mr. BAUCUS, Mr. BENNETT, Mr. BIDEN, Mr. BINGAMAN, Mr. BOND, Mrs. BOXER, Mr. BRADLEY, Mr. BREAUX, Mr. BROWN, Mr. BRYAN, Mr. BUMPERS, Mr. BURNS, Mr. BYRD, Mr. CAMPBELL, Mr. CHAFEE, Mr. COATS, Mr. COCHRAN, Mr. COHEN, Mr. CONRAD, Mr. COVERDELL, Mr. CRAIG, Mr. D'AMATO, Mr. DEWINE, Mr. DODD, Mr. DOMENICI, Mr. DORGAN, Mr. EXON, Mr. FAIRCLOTH, Mr. FEINGOLD, Mrs. FEINSTEIN, Mr. FORD, Mr. FRIST, Mr. GLENN, Mr. GORTON, Mr. GRAHAM, Mr. GRAMM, Mr. GRAMS, Mr. GRASSLEY, Mr. GREGG, Mr. HARKIN, Mr. HATCH, Mr. HATFIELD, Mr. HEFLIN, Mr. HELMS, Mr. HOLLINGS, Mrs. HUTCHISON, Mr. INHOFE, Mr. INOUYE, Mr. JEFFORDS, Mr. JOHNSTON, Mrs. KASSEBAUM, Mr. KEMPTHORNE, Mr. KENNEDY, Mr. KERREY, Mr. KERRY, Mr. KOHL, Mr. KYL, Mr. LAUTENBERG, Mr. LEAHY, Mr. LEVIN, Mr. LIEBERMAN, Mr. LOTT, Mr. LUGAR, Mr. MACK, Mr. MCCAIN, Mr. MCCONNELL, Ms. MIKULSKI, Ms. MOSELEY-BRAUN, Mr. MOYNIHAN, Mr. MURKOWSKI, Mrs. MURRAY, Mr. NICKLES, Mr. NUNN, Mr. PELL, Mr. PRESSLER, Mr. PRYOR, Mr. REID, Mr. ROBB, Mr. ROCKEFELLER, Mr. ROTH, Mr. SANTORUM, Mr. SARBANES, Mr. SHELBY, Mr. SIMON, Mr. SIMPSON, Mr. SMITH, Ms. SNOWE, Mr. SPECTER, Mr. STEVENS, Mr. THOMAS, Mr. THOMPSON, Mr. THURMOND, Mr. WARNER, and Mr. WELLSTONE):

S. Res. 196. A resolution relative to the death of the Reverend Richard Halverson, late the Chaplain of the U.S. Senate; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. MCCAIN:

S. 1433. A bill to direct the Secretary of Energy to establish a system for defining the scope of energy research and development projects, and for other purposes; to the Committee on Energy and Natural Resources.

DEFINING THE SCOPE OF ENERGY RESEARCH AND DEVELOPMENT PROJECTS LEGISLATION

● Mr. MCCAIN. Mr. President, at a time in which we are trying to reduce the deficit and improve the efficiency of government, we should not be funding research and development projects that are ill defined and poorly managed because of a lack of direction and purpose. We should not be providing Federal dollars to any program in which it is not clear how the American public will benefit from its investment. It only stands to reason that if the private sector will not fund efforts in which there is not some return on its investment, the Federal Government should not either.

Furthermore, we should not be funding efforts that the private sector should be funding because of its huge payoff to the private sector and minimal payoff to the American public. If there is shared benefits to be realized by both, then the effort should be cost shared between the two.

The Department of Energy spends approximately $7 billion a year on research and development activities. They cover a wide range of science and engineering issues in the energy field. Any savings due to an improvement in the efficiency and the effectiveness of the management system will amount to several millions of dollars.

Mr. President, I am introducing a bill that will begin to address this issue. The bill will require the Secretary of Energy to establish a project definition system for research and development projects in which projects costs are expected to exceed $1 million.

It is expected that by requiring this project definition system prior to funding any project, costly revisions in project plans and directions may be avoided. The project definition document, the product of the project definition system, will provide the foundation by which more detailed project plans can be developed. It is expected that this system will also further ensure that the Department is not funding projects that are not addressing a known problem.

The bill identifies a number of issues or questions to be resolved prior to the funding of a project. Included are such things as project cost, duration, future users or beneficiaries, cost sharing, and expected outcome.

However, also included in this list is the criteria to be used to determine the end of the project or the end of Government funding. For many years, Government-sponsored projects have gone on for years without any clear end in sight. They have consumed years of funding with little or no benefit for continuation. By having this criteria established at the beginning of the project, this practice will be stopped. With this stoppage of Government support, any cost-sharing partners may continue with the project if they decide to do so.

Mr. President, I feel this bill takes a step in the right direction of ensuring that our public resources are invested wisely and responsibly. I feel that if the Department can invest a little more time, more money, at the beginning of these expensive research and development projects, it can avoid some of the costly type of mistakes that it has made in the past—mistakes due to ill-defined projects and lack of proper planning.

I look forward to further discussions with my colleagues on how to further improve this bill. I hope my colleagues will join me in supporting this bill as we debate the future of the Department of Energy and work to eliminate projects that can and should be undertaken by the private sector, we should at the very least seek ways to ensure a direction and efficiency in the projects we do undertake.●

By Mr. THOMAS (for himself, Mr. DOLE, Mr. DOMENICI, Mr. SIMPSON, Mrs. KASSEBAUM, Mr. FAIRCLOTH, Mr. THOMPSON, and Mr. COCHRAN):

S. 1434. A bill to amend the Congressional Budget Act of 1974 to provide for a 2-year—biennial—budgeting cycle, and for other purposes; to the Committee on the Budget and the Committee on Governmental Affairs, jointly, pursuant to the order of August 4, 1977, with instructions that if one committee reports, the other committee has 30 days to report or be discharged.

THE BIENNIAL BUDGETING ACT OF 1995

Mr. THOMAS. Mr. President, I rise today to introduce a bill that creates a biennial budgeting cycle. It seems to me it is particularly appropriate to do that now. We have spent almost this entire year dealing with the budget. Surely it has been an unusual budget year in that we are attempting to make some changes, fundamental changes, in direction. But it is not otherwise unusual. As a matter of fact, since 1977, there have been 55 continuing resolutions, which would indicate we need to change the budgeting process. I am joined in this effort by a number of Senators originally and hope to have more: Senator DOLE, Senator DOMENICI, Senator SIMPSON, Senator KASSEBAUM, Senator FAIRCLOTH, Senator THOMPSON and Senator COCHRAN.

There are a lot of things we ought to be doing. We ought to be dealing with health care. We have not finished that problem. We ought to be dealing with regulatory reform. Most everyone agrees with that. Telecommunications, where we can deregulate and move forward with the things that will create jobs and move us forward. Personally, I believe we ought to be doing something with rangeland reform. Some of us live in States where 50 to 80 percent of the surface belongs to the Federal Government and is managed by the Federal Government. We need to change some of those things. Foreign policy—we need to be involved more in foreign policy. I think we find ourselves drifting into situations where we need to make policy in certain places and the administration says, gosh, we do not want to do that until we get an agreement, and then, after we have an agreement, it is too late to talk about it. So, essentially, the Congress is outside of foreign policy. That is wrong. We ought to be talking about endangered species, and a number of things that need to be done.

Instead, Mr. President, as you know, we spend almost all our time deciding on how we are going to fund the Government. Most States—the Presiding Officer, I think, in his State of Missouri, served as Governor—have biennial budgets. There are a couple of advantages to that, certainly. One of them is that it gives a little longer time for agencies to plan. Rather than every year, they have more tenure in their budgeting. They can plan longer. More important, I think, it allows the Congress, then, to have some time to do the other things, one of which is oversight of the budget.

I suspect that the budget debate will not be over in this session of Congress until next year. I suspect in less than 2 months we will be moving into another budget debate which consumes all of our time. I already mentioned that since 1977 we have had 55 continuing resolutions. We have had too many repetitive votes. We are back on the same thing over and over and over again without any new issue.

So there has not been, and continues not to be, enough time for vigorous oversight. I suspect one of the principal functions of the legislative body ought to be oversight of the budgets that they have approved to ensure that they are, indeed, being spent as they were designed to be spent and to discover how they can be spent more efficiently and more effectively. That is one of the things we have had very little time to do.

The provisions of this bill are rather simple. By the way, this is not a new idea. This has been introduced a number of times, been considered and supported by many Members of this body. It creates a 2-year authorization of appropriation and budget resolutions so that you set it out in a block and say here we are. It is not much more difficult to do it for 2 years than 1. You simply have a block of 2 years in which to do a budget. It is not difficult at all. All budgetary activities would take place during the first session of Congress. So in the second session you would have a chance to go back and provide some oversight to what is being done with the money that has been appropriated. Oversight in nonbudgetary matters would be taken up in the second session of Congress. There would be an opportunity to do the kinds of policy things that the Congress is designed to do in addition to spending all of our time funding the Government. Benefits, of course, would promote timely action on the budget, and would eliminate some of the redundancy. We need to do that. It would provide more time for effective oversight in the off years, and it would help so that we can reduce the size of Government.

It would also reduce the number of times where there is potential for the kinds of congressional-Presidential conflicts that arise so often as in the process now that arises. If would allow the budget to be adopted in the first year of the President's term, and in the first year of the sessions of Congress so that new Congresses can implement their budget, and then have a year for oversight. It would encourage longer-term planning in the agencies.

I think that is one of the keys to reducing the cost of Government. There have been very many programs, of course, that need to be analyzed, and that have to have applied to them priorities. Things need to be done much better—things that could be transferred to local governments, and closer to the people. Those things all are often a result of oversight.

There is a good deal of support for this proposition, as there has been in the past—Citizens Against Government Waste, the Hudson Institute, Concord Coalition, Cato Institute, Committee for Responsible Federal Budgeting—a 20-year history of legislative bipartisan support in this Congress supported by Presidents Bush and Reagan over the years.

Mr. President, this is obviously not a cure-all. Budgets are difficult. The allocation of money to activities is not easy, and it is terribly important. But I submit to you that it can be done as well in 2-year blocks, and the results will be much better. The results will be much better for the operations of Congress. The results will be much better for the operations of Government.

By Mr. MCCONNELL (for himself and Mr. WARNER):

S. 1435. A bill to grant immunity from personal civil liability, under certain circumstances, to volunteers working on behalf of nonprofit organizations and governmental entities; to the Committee on the Judiciary.

THE VOLUNTEER PROTECTION ACT

Mr. MCCONNELL. Mr. President, volunteer service has become a high-risk venture. Our ''sue happy'' legal culture has ensnared those selfless individuals who help worthy organizations and institutions through volunteer service. And, these lawsuits are proof that no good deed goes unpunished.

In order to relieve volunteers from these million dollar liability judgments, I am pleased to introduce the Volunteer Protection Act.

The litigation craze is hurting the spirit of voluntarism that is an integral part of American society. From school chaperones to Girl Scout and Boy Scout troop leaders to good samaritan doctors and nursing home aides, volunteers perform valuable services. And, these volunteers are being dragged into court and needlessly and unfairly sued. The end result? Too many people pointing fingers and too few offering a helping hand.

So, this bill creates immunity from lawsuits for those volunteers who act within the scope of their responsibilities, who are properly licensed or certified where necessary, and who do not cause harm willfully and wantonly.

In addition to creating a Federal standard for volunteer protection, the bill allows the States to add further refinements to the Federal standard. This will give the States a degree of flexibility and it strikes a balance between the federalism interest and the need to protect volunteers from these lawsuits. If a State enacts one or more of these additional criteria, the State law will be consistent with the Federal standard:

A requirement that the organization or entity adhere to risk management procedures, including the training of volunteers.

A requirement that the organization or entity be accountable for the actions of its volunteers in the same way that an employer is liable for the acts of its employees.

An exemption from the liability protection in the event the volunteer is using a motor vehicle or similar instrument.

An exemption from the liability protection if the lawsuit is brought by a State or local official in accordance with State or local law.

A requirement that the liability protection applies only if the nonprofit organization or government entity provides a financially secure source of recovery, such as an insurance policy, for those who suffer harm.

I ask unanimous consent that a copy of the bill be printed in the RECORD and Legal Backgrounder entitled, ''Unfair Lawsuits Threaten Volunteers'' as well as the American Tort Reform Association's ''A Few Facts About Volunteer Liability'' also be printed in the RECORD.

Mr. President, this bill is widely supported by those organizations who rely on volunteers to provide important services to our communities. Some 150 organizations have endorsed this bill and I ask that a list of the Coalition for Volunteer Protection be printed in the RECORD.

I look forward to the Senate's consideration of this bill and to prompt passage. We cannot afford not to enact this legislation. Our communities are depending upon us.

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

S. 1435

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Volunteer Protection Act of 1995''.

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds and declares that—

(1) the willingness of volunteers to offer their services is deterred by potential for liability actions against them and the organizations they serve;

(2) as a result, many nonprofit public and private organizations and governmental entities, including voluntary associations, social service agencies, educational institutions, and other civic programs, have been adversely affected by the withdrawal of volunteers from boards of directors and service in other capacities;

(3) the contribution of these programs to their communities is thereby diminished, resulting in fewer and higher cost programs

than would be obtainable if volunteers were participating; and

(4) because Federal funds are expended on useful and cost-effective social service programs, many of which are national in scope, depend heavily on volunteer participation, and represent some of the most successful public-private partnerships, protection of volunteerism through clarification and limitation of the personal liability risks assumed by the volunteer in connection with such participation is an appropriate subject for Federal legislation.

(b) PURPOSE.—The purpose of this Act is to promote the interests of social service program beneficiaries and taxpayers and to sustain the availability of programs, nonprofit organizations, and governmental entities that depend on volunteer contributions by reforming the laws to provide protection from personal financial liability to volunteers serving nonprofit organizations and governmental entities for actions undertaken in good faith on behalf of such organizations.

SEC. 3. PREEMPTION.

This Act preempts the laws of any State to the extent that such laws are inconsistent with this Act, except that this Act shall not preempt any State law that provides additional incentives or protections to volunteers, or category of volunteers.

SEC. 4. LIMITATION ON LIABILITY FOR VOLUNTEERS.

(a) LIABILITY PROTECTION FOR VOLUNTEERS.—Except as provided in subsections (b) and (d), no volunteer of a nonprofit organization or governmental entity shall be liable for harm caused by an act or omission of the volunteer on behalf of the organization or entity if—

(1) the volunteer was acting within the scope of his or her responsibilities in the nonprofit organization or governmental entity at the time of the act or omission;

(2) if appropriate or required, the volunteer was properly licensed, certified, or authorized by the appropriate authorities for the activities or practice in the State undertaken within the scope of his or her responsibilities in the nonprofit organization or governmental entity; and

(3) the harm was not caused by willful and wanton misconduct by the volunteer.

(b) CONCERNING RESPONSIBILITY OF VOLUNTEERS WITH RESPECT TO ORGANIZATIONS.—Nothing in this section shall be construed to affect any civil action brought by any nonprofit organization or any governmental entity against any volunteer of such organization or entity.

(c) NO EFFECT ON LIABILITY OF ORGANIZATION.—Nothing in this section shall be construed to affect the liability of any nonprofit organization or governmental entity with respect to harm caused to any person.

(d) EXCEPTIONS TO VOLUNTEER LIABILITY PROTECTION.—If the laws of a State limit volunteer liability subject to one or more of the following conditions, such conditions shall not be construed as inconsistent with this Act:

(1) A State law that requires the organization or entity to adhere to risk management procedures, including mandatory training of volunteers.

(2) A State law that makes the organization or entity liable for the acts or omissions of its volunteers to the same extent as an employer is liable for the acts or omissions of its employees.

(3) A State law that the limitation of liability does not apply if the volunteer was operating a motor vehicle, vessel, aircraft, or other vehicle for which the State requires the operator or vehicle owner to possess an operator's license or to maintain insurance.

(4) A State law that the limitation of liability does not apply if the civil action was brought by an officer of a State or local government pursuant to State or local law.

(5) A State law that the limitation of liability shall apply only if the nonprofit organization or governmental entity provides a financially secure source of recovery for individuals who suffer harm as a result of actions taken by a volunteer on behalf of the organization or entity. A financially secure source of recovery may be an insurance policy within specified limits, comparable coverage from a risk pooling mechanism, equivalent assets, or alternative arrangements that satisfy the State that the entity will be able to pay for losses up to a specified amount. Separate standards for different types of liability exposure may be specified.

SEC. 5. DEFINITIONS.

For purposes of this Act—

(1) the term ''economic losses'' means objectively verifiable monetary losses, including past and future medical expenses, loss of past and future earnings, cost of obtaining replacement services in the home (including child care, transportation, food preparation, and household care), cost of making reasonable accommodations to a personal residence, loss of employment, and loss of business or employment opportunities;

(2) the term ''harm'' includes physical, nonphysical, economic, and noneconomic losses;

(3) the term ''noneconomic losses'' means losses for physical and emotional pain, suffering, inconvenience, physical impairment, mental anguish, disfigurement, loss of enjoyment of life, loss of society and companionship, loss of consortium (other than loss of domestic service), hedonic damages, injury to reputation and all other nonpecuniary losses of any kind or nature;

(4) the term ''nonprofit organization'' means any organization described in section 501(c) of the Internal Revenue Code of 1986 and exempt from tax under section 501(a) of such Code;

(5) the term ''State'' means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, any other territory or possession of the United States, or any political subdivision of any such State, territory, or possession; and

(6) the term ''volunteer'' means an individual performing services for a nonprofit organization or a governmental entity who does not receive—

(A) compensation (other than reimbursement or allowance for expenses actually incurred); or

(B) any other thing of value in lieu of compensation,

in excess of $300 per year, and such term includes a volunteer serving as a director, officer, trustee, or direct service volunteer.

SEC. 6. EFFECTIVE DATE.

This Act applies to any claim for harm caused by an act or omission of a volunteer filed on or after the date of enactment of this Act, without regard to whether the harm that is the subject of the claim or the conduct that caused the harm occurred before such date of enactment.

AMERICAN TORT REFORM ASSOCIATION,
Washington, DC.

VOLUNTEER LIABILITY

In October 1983, Craig Fredborg celebrated his birthday by climbing Box Springs Mountain, overlooking Riverside, California. To his companions' horror, Fredborg slipped on a boulder and plummeted some 90 feet, sustaining severe spinal injuries.

Alerted that Fredborg lay helpless on the slope, Walter Walker, now 54, and his son Kevin, 31, and teammates from the volunteer Riverside Mountain Rescue Unit scrambled to aid a physician and a paramedic in mounting a ticklish nighttime helicopter evacuation. Over the last 30 years, the unit's volunteers have saved hundreds of lives. But for their troubles, the Walkers and the others involved in the emergency mission were sued two years later by the victim, who asked $12 million in damages, claiming that 'reckless and negligent' rescue techniques had caused him to become a quadriplegic.

The lawsuit eventually was dropped. But not before the Walkers lost a lot of hours from their family printing business giving depositions and meeting with defense attorneys provided them by the county sheriff's department. Perhaps the most significant consequence of the suit, says Walker, is that meticulous documentation and planning procedures have been instituted in its wake to forestall future liability claims. 'Probably we were a little weak in that,' he concedes. Nevertheless, he adds, 'It definitely has slowed us down in getting the team into the field . . . Concern about liability exposure has complicated how we look at every mission.' ''—David O. Weber, ''A Thousand Points of Fright?'', Insurance Review, February 1991.

A man who was high on LSD was rescued by a student, after he had jumped from a 30 foot dockside bar into a seven foot pool of water. The man suffered a broken neck and was left paralyzed for life. However, he subsequently sued both the school and the student. The judge eventually threw the case out, but unfortunately, this is just another prime example of a waste of tax payers money.—Mississippi Press, May 2, 1993.

''Amateur referees at softball diamonds, high school stadiums and college field houses are finding that their decisions can trigger major-league lawsuits.'' An Iowa souvenir company faced with a suddenly devalued inventory challenged the last-second foul call of a part-time Big Ten basketball official with a $175,000 negligence suit. The official eventually won his court battle, but only after a costly two-year fight that went all the way to the Iowa Supreme Court.

''Some of our people got to the point where they were just afraid to work because of the threat of lawsuits,'' says Dottie Lewis of the Southwest Officials Association in Dallas. The Association provides officials for scholastic games.

A New Jersey umpire was sued by a catcher who was hit in the eye by a softball while playing without a mask; he complained that the umpire should have lent him his. The catcher walked away with a $24,000 settlement.—The Wall Street Journal, Friday, August 11, 1989.

58% of the principals responding to a survey sponsored by the National Association of Secondary School Principals said that they had noticed a difference in the kinds of school programs being offered in schools because of liability concerns, and the use of non-faculty volunteers was affected. Typically, parent volunteers assist schools with tutoring, science programs, class trips and social activities.—1989 Survey Members of the National Association of Secondary School Principals.

NATIONAL COALITION FOR VOLUNTEER PROTECTION

Academy of Medicine of Columbus and Franklin County, Air Force Association, Alabama Forestry Association, Alabama Oilmens Association, Alabama Textile Manufacturers Association, Alliance for Fire and Emergency Management, American Association of Blood Banks, American Association

of Equine Practitioners, American Association of Museums, American Association of Nurserymen, American Association of Occupational Health Nurses, American Chamber of Commerce Executives, American College of Emergency Physicians—National Office.

American College of Healthcare Executives, American Diabetes Association Kentucky Affiliate, American Hardware Manufacturers Association, American Horse Council Incorporated, American Horticultural Therapy Association, American Industrial Hygiene Association, American Institute of Architects North Carolina Chapter, American Physical Therapy Association California Chapter, American Physical Therapy Association Louisiana Chapter, American Production and Inventory Control Society, American Red Cross, American Society of Anesthesiologists, American Society of Association Executives, American Society of Mechanical Engineers Washington Office, American Society of Safety Engineers.

American Tort Reform Association, Anchorage Convention and Visitors Bureau, Arizona Academy of Family Physicians, Arizona Cable Television Association, Arizona Contractors Association, Arizona Motor Transport Association, Arkansas Hospital Association, Arkansas Hospitality Association, Arkansas Pharmacists Association, Arthritis Foundation National Office, Associated Builders and Contractors of Wisconsin Incorporated.

Associated California Loggers, Associated Industries of Massachusetts, Association Management Services, Association of Graphic Communications, Baton Rouge Apartment Association, Beacon Consulting Group, Building Industry Association of Tulare/Kings Counties Incorporated, California Association of Employers, California Association of Marriage and Family Therapists, California Chamber of Commerce, California Dental Association, California Independent Petroleum Association, California Society of Enrolled Agents, Catholic Health Association, Chicagoland Chamber of Commerce.

Childrens Alliance, Colorado Society of Association Executives, Community and Economic Development Association of Cook County Incorporated, Community Associations Institute, Connecticut Association of Not for Profit Providers for the Aging, Council of Community Blood Centers, Eastern Building Material Dealers Association, Fazio International Ltd, Financial Managers Society Incorporated, Florida Nurserymen and Growers Association Incorporated, Florida Optometric Association, General Federation of Womens Clubs, Greater Washington Society of Association Executives, Home Builders Association Holland Area, Home Builders Association of Kentucky.

Howe and Hutton Limited, Illinois Lumber and Material Dealers Association Incorporated, Independent Insurance Agents of Arkansas, Independent Insurance Agents of Virginia, Independent Sector, International Association for Financial Planning, Iowa and Nebraska Equipment Dealers Association, Iowa Bankers Association, Iowa Society of Certified Public Accountants, Kansas City Area Hospital Association, Kentucky Automobile Dealers Association Incorporated, Kentucky Derby Festival Incorporated, Kentucky Grocers Association, Kentucky Medical Association, Literacy Volunteers of America.

Long Island Convention and Visitors Bureau, MACU Association Group, Maine Association of Broadcasters, Maryland State Dental Association, Massachusetts Association of Rehabiitation Facilities, Mechanical Contractors Association of America Incorporated St. Louis Chapter, Metropolitan Detroit Plumbing and Mechanical Contractors Association, Michigan Chamber of Commerce, Michigan Dental Association, Michigan Pork Producers Association, Midwest Equipment Dealers Association Incorporated, Minnesota Automobile Dealers Association, Minnesota Electrical Association, Mississippi Malt Beverage Association.

Mississippi Optometric Association, Missouri Association of Homes for the Aging, Missouri Automobile Dealers Association, Modular Building Institute, National Association for Campus Activities, National Association of Hosiery Manufacturers, National Electrical Contractors Association St. Louis Chapter, National Electronic Distributors Association, National Federation of Nonprofits, National Glass Association, National Parent Teachers Association, National Small Business United, National Society of Professional Engineers, National Student Nurses Association, Nevada Association of Realtors.

Nevada Society of Certified Public Accountants, North American Equipment Dealers Association, Ohio Lumberman's Association, Ohio Osteopathic Association, Ohio Society of Association Executives, Ohio Society of Certified Public Accountants, Oklahoma Public Employees Association, Professional Meetings and Association Services, Public Risk Management Association, Recreation and Welfare Association, Relationship Management Incorporated, Religious Conference Management Association, Smith Bucklin and Associates Incorporated Washington Office, Soroptimist International of the Americas.

South Dakota Dental Association and Foundation, Texas Association of Nurserymen Incorporated, Texas Land Title Association, Texas Oil Marketers Association, Towing and Recovery Association of America, United States Hang Gliding Association, United States Pony Clubs, United Way of America, Utah Mechanical Contractors Association, Virginia Society of Association Executives, Water Environment Federation, Western Retail Implement and Hardware Association, Wisconsin Home Organization, Wisconsin League of Financial Institutions Ltd, Wisconsin Ready Mixed Concrete Association, Wisconsin Restaurant Association, Wisconsin Wholesale Beer Distributors Association, YMCA of the USA.

150 Members as of November 27, 1995.

WASHINGTON LEGAL FOUNDATION,
Washington, DC, December 16, 1994.

UNFAIR LAWSUITS THREATEN VOLUNTEERS

(By William J. Cople III)[1]

Volunteer service is under assault from an unlikely quarter—the civil justice system. Like so many others, volunteers and their service organizations have been swept into the courts to face potential liability in civil suits. Under the rule of law, our actions are judged by common standards of conduct. This provides the basis for the courts to recognize rights and afford remedies to those who claim to be aggrieved. But civil justice should not be used recklessly to inhibit beneficial conduct that may involve some amount of risk. In order for volunteer service to survive and prosper, the civil justice system must find an equilibrium under which it recognizes and protects personal and property rights without stifling the volunteer spirit so necessary to a vital and self-reliant community.

Efforts to achieve this balance have been hindered by the civil justice system itself. Both federal and state courts seem to be trapped in a disturbing pattern of recognizing novel rights and enlarging the scope of existing rights in an effort to redress a multitude of real and perceived wrongs and injuries. The courts have regrettably found rights, and corresponding remedies, to exist in cases involving grievances that are trivial or mundane and in cases where acts or omissions were not previously understood to be a legal wrong. In other cases, judges and juries have found serious injuries and other matters of grave concern to deserve recompense, even though the legal duty was uncertain or the causal connection to the harm was attenuated.

As a result, the value of rights that historically have been recognized in the courts as a proper subject of redress has been debased by according them respect no greater than the most tenuous rights now being recognized. Moreover, the expansion of potential liability may diminish desirable and beneficial conduct, such as the willingness to serve as a volunteer. In the past, the courts seem to have understood that some circumstances, even ones of tragic proportion, are simply caused by accident or misfortune, and not necessarily by culpable conduct on the part of any other person. Yet, this now has become an unacceptable conclusion. Every conceivable circumstance in which we deal and interact with each other seems to create a victim. This has spawned the civil litigation clogging the courts, as every victim of circumstances seeks compensation by shifting the blame for those circumstances to someone else.

An unfortunate effect of this civil litigation is to heighten the risks of volunteer service. In thousands of service organizations, volunteers give freely of their time and effort to support activities that they believe to be worthwhile for a host of personal reasons. This is done without expectation of compensation or other remuneration of any kind. Nonetheless, many volunteer organizations have been forced by the growing threat of civil litigation to purchase and maintain liability insurance or other forms of legal indemnity covering volunteers for their services.

Even with insurance coverage, the increasing risk of litigation no doubt has a chilling effect on the willingness and enthusiasm of volunteers to donate their time and effort. Many volunteers may think twice before becoming involved, while others may continue to participate, but curtail their services to those activities that seem relatively risk-free. Still others may cease to be a volunteer, out of an abundance of caution and justifiable aversion to being caught up in civil litigation. Quantifying the effects of increased risk of civil liability on volunteer service will have to await empirical evidence. It is fair to say, however, that volunteers themselves have become victims of the civil justice system. The increasing propensity to enlarge the universe of rights and award compensation, often in stunning amounts, may be to the detriment of volunteer service.

This danger was illustrated recently in a personal injury lawsuit brought against volunteers serving a local council of the Boy Scouts of America. In a case brought in Oregon state court, Powell v. Boy Scouts of America, et al., a youth seriously injured in an activity sponsored by Scouting sued the Boy Scouts and its adult volunteers for negligence.

The Boy Scouts of America is a national volunteer service organization, chartered by the U.S. Congress in 1916, pursuant to 36 U.S.C. §§21–29. Acting primarily through its volunteers, the Boy Scouts is dedicated to the training of youth in accordance with long-established Scouting ideals and principles. Id. §23. The Boy Scouts operates

[1]William J. Cople III is a partner with the Washington, D.C. law firm of Spriggs & Hollingsworth and serves pro bono as the General Counsel of the National Capital Area Council of the Boy Scouts of America.

through several hundred local Scout councils. Community organizations within each Council, including churches, schools, and civic groups, among others, conduct Scouting programs and activities. The availability of these programs and activities depends upon individual volunteers willing to devote considerable time and effort in providing adult supervision for participating Scouts. These volunteers provide their time and resources to support the Council and the local organizations. They not only develop and plan the Scouting activities, but also raise the funds in the community necessary to support them. Without these volunteers, the Boy Scouts would be deprived of its principal resource for carrying out its national charter as a youth service organization.

In the Powell case, several adults in Portland, Oregon volunteered to supervise an outing of the Sea Explorers, a Scouting unit in the Boy Scouts' Cascade Pacific Council. In a tragic accident, one of the young men participating in the Sea Explorer outing suffered a paralyzing injury in a rough game of touch football. The injured youth, who was 16 years of age at the time of the accident, broke his neck during the football game and is now quadriplegic. At least one of the adult volunteers apparently knew that the boys were throwing a football around, but neither observed the game in which the boy was injured.

Based on this incident, the injured youth filed a personal injury lawsuit against the Boy Scouts and the Columbia Pacific Council (predecessor to Cascade Pacific Council) in Multnomah County Circuit Court, Oregon. The suit alleged that the youth's injury was foreseeable and preventable, and that the Boy Scouts and its volunteers negligently failed to supervise him adequately during the Sea Explorer outing.

The Court dismissed the original lawsuit, evidently based on an insufficient nexus between the Boy scouts and the youth's injury. Subsequently, the injured young man filed his personal injury lawsuit directly against two of the adult volunteers who participated in the Sea Explorer outing. Following trial, an Oregon jury entered a verdict against the two adult volunteers, finding them liable for some $7 million. In one of the largest monetary verdicts in Oregon, the jury awarded $4.89 million dollars for future care and lost earnings plus $2.14 million dollars for pain and suffering. In accordance with Oregon state law, the amount of the verdict will be reduced by the proportionate negligence, approximately one-third, that the jury assigned to the injured youth for his own negligent conduct. The Oregon Circuit Judge presiding at trial also reduced the amount awarded by the jury for pain and suffering to $500,000, reflecting a statutory limit on noneconomic damages that may be awarded in personal injury suits in Oregon.

The Oregon jury's verdict in this case against the Sea Explorer adult volunteers brings the civil justice dilemma into striking focus. The case was born of a tragic accident in which a young man's life and future were forever changed by a debilitating permanent injury. But this tragedy may have been compounded, not alleviated, by finding culpability and imposing liability on the adult volunteers under circumstances suggesting an enlargement of the volunteers' legal duty. The jury seemingly held the volunteers to a standard of care requiring them constantly to supervise the youth entrusted to their charge, even for activities which under other circumstances may routinely be permitted without such meticulous oversight.

Any parent entrusting their children to the care and supervision of another should expect and demand that all reasonable and prudent care be taken in discharging that responsibility. However, this does not mean that this duty of care must be carried out in such an extraordinary manner that only constant supervision of the youth in their care, regardless of age and other factors, will suffice for volunteers to satisfy their legal responsibility. Certainly, the circumstances surrounding tragic incidents should be carefully examined. All relevant facts and circumstances should be given due weight and consideration in judging whether an adult volunteer has adequately met the responsibility to supervise a child entrusted to his care. But circumstances will nonetheless occur where senseless tragedies happen without anyone being legally to blame. As in the case of other legal duties, adequate supervision should mean reasonable and prudent conduct as required under the circumstances as they existed at the time. Organizations serving the youth in our community, as well as those fulfilling other beneficent purposes, should not be forced into the role of guaranteeing a safe harbor free of all risk. Likewise, neither should volunteers be held a standard that may be infeasible, or even unattainable.

To choose otherwise would mean that the civil justice system needs to resolve every mishap and inexplicable tragedy by identifying someone to bear legal responsibility for a victim of those circumstances. This may, or may not, have happened in the case of the Multnomah County Circuit Court jury's verdict against the Scout volunteers. But the circumstances of the case, and the available evidence that has been reported, seem to suggest that the jury overreached in an effort to assign blame.

As is the case of the Oregon verdict against the Sea Explorer volunteers, there are a great many cases involving injury to person, property, or other rights, which are anything but trivial. In fact, their dimensions may be so tragic that such cases motivate judges or juries to find fault and assign blame where it might otherwise hesitate and decline to do so. The judgments entered in such cases, however, have other serious consequences. They obscure the standards of conduct under which we should expect to comport ourselves. This expectation of being able to determine, before we act, whether we are engaging in conduct that is right or wrong is a critical component to civil justice. Moreover, when civil litigation affords redress to every injury, regardless of whether the circumstances justify it under the rule of law, those rights that are long established and highly prized are commensurately demeaned. If virtually every injury is entitled to compensation, then the most important rights become lost in the sea of compensable grievances that the courts recognize. Finally, we need to underscore that a legal judgment entered in a single case can have a multitude of consequences extending far beyond that case itself. This surely is a reason for concern in the case of volunteers to service organizations.

The Boy Scouts afford their volunteers certain insurance liability coverage or other indemnity for their acts or omissions that may occur in the course of providing services as a Scouting volunteer. This coverage is far from unlimited. Similarly, other youth service and charitable organizations may also be able to provide such insurance coverage for their volunteers, but still others may not. Even with insurance coverage available, many of the most talented and energetic volunteers may eschew volunteer service, fearing that their good intentions will buy themselves a lawsuit. This is a particularly invidious effect, which is difficult to measure and even harder to correct. Existing and prospective volunteers may refuse to participate in many organizations out of a genuine concern with accepting an unreasonable risk of potential liability. Volunteers who might otherwise be motivated to serve may be deterred from doing so based solely on this concern for liability.

The Supreme Court of the United States aptly characterized the problem in *Parratt* v. *Taylor* 451 U.S. 527, 101 S. Ct. 1908 (1981). In Parratt, a prisoner, who lost his mail order hobby materials when normal procedures for receipt of mail packages were not followed, brought a federal civil rights case for the alleged deprivation of a Constitutional right. In its decision in that case, the Court seemed to forewarn the civil justice system that not every wrong is entitled to redress as a violation of Constitutional rights because ''[i]t is hard to perceive any logical stopping place for such a line of reasoning.'' *Id.* at 544. The Court's observation, though made in the context of a civil rights suit more than ten years ago, is equally salient today. The civil justice system should not recognize a legal right for every victim of circumstances. The rule of law should be used to define our standards of conduct and promote consistency and reasonable expectations in their application. The case involving the Sea Explorer volunteers in Oregon serves to reveal a truth. Despite the best of intentions, when misused or used in unpredictable ways, the civil justice system ends up serving no one, least of all those who volunteer.●

By Mr. LAUTENBERG:

S. 1436. A bill to amend the Federal Water Pollution Control Act to allow certain privately owned public treatment works to be treated as publicly owned treatment works, and for other purposes; to the Committee on the Environment and Public Works.

THE MUNICIPAL WASTEWATER TREATMENT FACILITY PRIVATE INVESTMENT ACT OF 1995

Mr. LAUTENBERG. Mr. President, I rise to introduce the Municipal Wastewater Treatment Private Investment Act. This bill will remove an impediment to private investment in municipal wastewater treatment facilities and in doing so, will improve water quality, provide increased fiscal flexibility to local governments, and create jobs.

Mr. President, our Nation's waters are a priceless resource. They provide recreational opportunities, habitat for fish and wildlife, and drinking water among other uses. But we cannot assure our citizens that our waterways will be clean unless we have adequate wastewater treatment facilities.

And our wastewater treatment needs are staggering. According to the 1992 EPA National Needs Survey, it will cost the United States $112 billion to build necessary wastewater treatment facilities. My State of New Jersey's wastewater treatment needs alone are $4.759 billion. This includes close to $2 billion for wastewater treatment plants necessary for compliance with the Clean Water Act and an estimated $1.29 billion to reduce discharges of bacteria, garbage and other floatable debris, and other untreated waste from combined sewer overflows. The remaining needs are to construct new sewers and repair existing sewers.

Federal dollars are necessary but insufficient to build these facilities. The

Senate VA/HUD appropriations bill includes $1.5 billion for State revolving loan funds. This funding level alone is insufficient to pay the costs local communities will have to bear to comply with the Clean Water Act. In addition, State revolving loan assistance will have to address other water quality needs such as storm water and nonpoint source pollution.

Local communities are looking increasingly to privatization of local governmental programs as a way to pay for these programs. This is an obvious way for them to minimize the costs associated with Federal requirements, which are eating into their budgets. And the Federal Government should do everything possible to assist these efforts.

In 1992, President Bush issued Executive Order 12803, which made it easier for local governments to privatize facilities that have received Federal financing—including wastewater treatment facilities. EPA Administrator Carol Browner has expressed her support to continue these efforts. In a letter she wrote to Mr. Edward Limbach, vice president of the American Water Works Co. in Voorhees, NJ, Ms. Browner said:

[W]e need to provide communities the opportunity to work more closely with the private sector in financing environmental infrastructure. Local officials are in the best position to develop capital financing structures that meet their particular needs. We find that communities throughout the Nation are taking the lead in ''reinventing government'' and acknowledging the ability of private capital to enhance public investment. The EPA is committed to supporting these communities and allowing them flexibility in financing the infrastructure systems needed to achieve the environmental protection our citizens demand.

EPA has an initiative underway to encourage private investment in wastewater treatment facilities.

I urge the Congress to join with the administration in providing flexibility to local officials struggling to address the wastewater needs of this country. One problem identified by EPA which requires legislation concerns the phrase ''publicly owned treatment works'' or [POTWs]. This is the phrase used in the Clean Water act to identify what we all know to be municipal sewage facilities. Under the act, POTWs, treating municipal waste, are required to provide a level of treatment known as secondary treatment. However, if a private company offered to provide the same municipal waste services to the same community, it would have to meet a different treatment standard only because it is not a publicly owned treatment work.

Mr. President, the level of wastewater treatment should be based on the quality of the receiving water, or a national technology standard—it should not turn on the tax status of the owner of the sewer pipe.

My bill would define publicly owned treatment works to include wastewater facilities which are privatized or jointly owned by public and private partners. The legislation would remove the uncertainty regarding the environmental standards governing privately owned wastewater treatment facilities providing municipal wastewater services. It would require the same environmental standards for municipal wastewater treatment facilities owned in whole or in part by private investors as would apply to publicly owned treatment works. Communities and their citizens should not face an additional burden imposed by the Federal Government simply because they are developing innovative means to pay for a clean environment.

This bill would have numerous positive benefits. Perhaps most importantly, it would lead to more construction of wastewater treatment facilities. According to a report done by NatWest Washington Analysis, potential private investment in municipal wastewater treatment facilities could reach $2 billion a year. This would double the Federal investment in wastewater facilities.

To the extent that this investment is in new facilities, there will be more treatment facilities and cleaner water. The legislation also would help private capital flow into wastewater systems facing upgrades, expansions and new requirements.

Under the legislation, private and public/private facilities would have to comply with all of the same requirements that publicly owned facilities must comply with. Industrial facilities discharging into sewers and treatment plants, whether public or private, would continue to be subject to the pretreatment requirements of the Clean Water Act.

The legislation also will lead to additional jobs. According to a study prepared by Apogee Research, every $1 billion spent on wastewater facility investment generates 34,200 to 57,400 jobs.

The bill also would mean more capital investment to protect and prolong the extensive Federal investment in existing structures.

Privatization gives local governments which must comply with the Clean Water Act an additional fiscal tool for construction and maintenance of these facilities. It provides equitable treatment of communities that choose to pursue alternative financing on their own rather than depending on limited Federal funds.

Mr. President, this bill will help the private sector provide the infrastructure financing which is essential for economic growth. It will give local governments with limited financial resources another tool to address their budgetary problems. It will generate jobs. And it will improve the quality of the Nation's waters.

This proposal is endorsed by the National Association of Water Companies, the National Council for Public-Private Partnership, the Utility and Transportation Contractors Association of New Jersey, the National Utility Contractors Association, and the Water and Wastewater Equipment Manufacturers Association.

I urge my colleagues to support this legislation.

I ask unanimous consent that the text of the bill be included in the RECORD.

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

S. 1436

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Municipal Wastewater Treatment Facility Private Investment Act of 1995''.

SEC. 2. FINDINGS.

Congress finds that—

(1) municipal wastewater treatment construction needs exceed $100,000,000,000;

(2) Federal assistance for State revolving loan programs will provide funding for only a portion of the municipal wastewater treatment facilities;

(3) increasing the amount of funds invested by the private sector in municipal wastewater treatment facilities would—

(A) help address the funding shortfall referred to in paragraph (2);

(B) stimulate economic growth;

(C) lead to an increase in the construction of wastewater treatment facilities and jobs;

(D) result in a cleaner environment; and

(E) provide a greater degree of fiscal flexibility for local governments in meeting Federal mandates; and

(4) the most effective way to encourage an increase in the level of involvement of the private sector in the provision of municipal wastewater services is to provide for the uniform regulation of municipal wastewater treatment plants without regard to whether the wastewater treatment plants are publicly or privately owned or under the control of a public and private partnership.

SEC. 3. PUBLICLY OWNED TREATMENT WORKS DEFINED.

Section 502 of the Federal Water Pollution Control Act (33 U.S.C. 1362) is amended by adding at the end the following new paragraphs:

''(21) As used in titles I, III, and IV, and this title, the term 'publicly owned treatment works' means a device or system used in the collection, storage, treatment, recycling, or reclamation of municipal wastewater (or a mixture of municipal wastewater and industrial wastes of a liquid nature) with respect to which all or part of the device or system—

''(A) was constructed and is owned or operated by a State or municipality;

''(B) was constructed, owned, or operated by a State or municipality and the ownership has been transferred (in whole or in part) to a private entity that is a regulated utility or that has in effect a contract with a State or municipality to receive municipal wastewater (or a mixture of municipal wastewater and industrial wastes of a liquid nature) from sewers, pipes, or other conveyances, if the facility is used in a manner prescribed in the matter preceding subparagraph (A) by the private entity; or

''(C) is owned or operated by a private entity that is a regulated utility or that has in effect a contract with a State or municipality to receive municipal wastewater (or a mixture of municipal wastewater and industrial wastes of a liquid nature) from sewers, pipes, or other conveyances within a service area that would otherwise be served by the

State or municipality, if the facility is used in a manner prescribed in the matter preceding subparagraph (A).

''(22) The term 'regulated utility' means a person, firm, or corporation with respect to which—

''(A) a State water pollution control agency grants a license to own or operate (or both) a wastewater treatment facility; and

''(B) a State regulates the fees or other charges of the utility.''.

By Mr. THURMOND:

S. 1437. A bill to provide for an increase in funding for the conduct and support of diabetes-related research by the National Institutes of Health; to the Committee on Labor and Human Resources.

THE DIABETES RESEARCH ACT

Mr. THURMOND. Mr. President, I am pleased to rise today, along with my able colleague Senator SIMON, to introduce the Diabetes Research Act. Diabetes is a chronic, and often fatal, disease affecting more than 14 million Americans. Billions of dollars are spent annually to care for those afflicted by this disease. It is the fourth leading cause of death in the United States and a major cause of kidney disease, heart disease, amputation, and adult blindness. Scientists tell us that medical research holds a cure for diabetes, yet the problem persists.

In February of this year, I attended the Capitol Summit on Diabetes Research where leading scientists from around the Nation presented a comprehensive plan to direct diabetes research to a cure by the turn of the century. Recent evidence indicates that we are on the verge of uncovering new prevention, screening, and treatment procedures that will dramatically improve diabetes therapy and lead to a cure in the very near future.

The bill I am introducing today will substantially increase the funds available to the National Institutes of Health for diabetes research. I believe that at this critical juncture in the fight to end diabetes, it is imperative that we provide additional funding to our scientists who are on the verge of finding a cure. Every year, over $100 billion is spent caring for the 14 million citizens suffering with the complications of this devastating disease. This bill increases the authorization by $315 million for diabetes research. In light of the emotional and financial burden that diabetes brings to our country, I believe that this bill represents a prudent, invaluable investment in our Nation's future. I urge my colleagues to join me in cosponsoring this critical legislation so that we can end diabetes, and end the pain that this disease brings to its sufferers and their loved ones.

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

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

S. 1437

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Diabetes Research Act of 1995''.

SEC. 2. FINDINGS.

The Congress finds as follows:

(1) Diabetes is a serious health problem in America.

(2) More than 14,000,000 Americans suffer from diabetes.

(3) Diabetes is the fourth leading cause of death in America, taking the lives of 162,000 people annually.

(4) Diabetes disproportionately affects minority populations, especially African-Americans, Hispanics, and Native Americans.

(5) Diabetes is the leading cause of new blindness, affecting up to 39,000 Americans each year.

(6) Diabetes is the leading cause of kidney failure requiring dialysis or transplantation, affecting up to 13,000 Americans each year.

(7) Diabetes is the leading cause of nontraumatic amputations, affecting 54,000 Americans each year.

(8) The cost of treating diabetes and its complications are staggering for our Nation.

(9) Diabetes accounted for health expenditures of $105,000,000,000 in 1992.

(10) Diabetes accounts for over 14 percent of our Nation's health care costs.

(11) Federal funds invested in diabetes research over the last two decades has led to significant advances and, according to leading scientists and endocrinologists, has brought the United States to the threshold of revolutionary discoveries which hold the potential to dramatically reduce the economic and social burden of this disease.

(12) The National Institute of Diabetes and Digestive and Kidney Diseases supports, in addition to many other areas of research, genetic research, islet cell transportation research, and prevention and treatment clinical trials focusing on diabetes. Other research institutes within the National Institutes of Health conduct diabetes-related research focusing on its numerous complications, such as heart disease, eye and kidney problems, amputations, and diabetic neuropathy.

SEC. 3. NATIONAL INSTITUTES OF HEALTH; INCREASED FUNDING REGARDING DIABETES.

With respect to the conduct and support of diabetes-related research by the National Institutes of Health—

(1) in addition to any other authorization of appropriations that is available for such purpose for the fiscal year involved, there are authorized to be appropriated for such purpose such sums as may be necessary for each of the fiscal years 1996 through 2000; and

(2) of the amounts appropriated under paragraph (1) for such purpose for a fiscal year, the Director of the National Institutes of Health shall reserve—

(A) not less than $155,000,000 for such purpose for the National Institute of Diabetes and Digestive and Kidney Diseases; and

(B) not less than $160,000,000 for such purpose for the other national research institutes.

Mr. SIMON. Mr. President, during this National Diabetes Awareness Month, I am pleased to join my colleague Senator STROM THURMOND in introducing the Diabetes Research Act of 1995, a bill to authorize increased funding for diabetes research. It is identical to legislation introduced in the House earlier this year by Representative ELIZABETH FURSE and Representative GEORGE R. NETHERCUTT, Jr.

Information from the National Institute of Diabetes and Digestive and Kidney Diseases shows there has been a dramatic increase recently in the number of Americans with diabetes—almost a 50 percent increase since 1983. About 15 million Americans now have diabetes, and an estimated half of them do not know they have the disease.

Diabetes is one of the leading causes of death by illness in the United States. It can lead to blindness, kidney failure, heart disease, stroke, and nerve damage. And it affects minority groups two to three times more frequently than others.

The rapid increase is taking place primarily in type II diabetes—adult-onset diabetes—which makes up 95 percent of cases. This type of diabetes is usually diagnosed at age 51, and with increasing numbers of Americans in this age range, we can expect an even higher incidence of diabetes in the future.

The diabetes-related costs to the Nation each year are estimated at over $100 million. And each day, thousands of Americans are facing blindness, amputation of extremities, and heart disease as a result of the disease.

We need to make research in this area a priority, and that is the purpose of the $315 million increase in NIH funding in this bill. The good news is, diabetes research is making great strides, and additional effort has an excellent chance of providing breakthrough results, saving thousands of lives, improving the lives of millions more and saving billions of health care dollars.

I invite my colleagues' support for this legislation.

ADDITIONAL COSPONSORS

S. 581

At the request of Mr. FAIRCLOTH, the name of the Senator from Utah [Mr. BENNETT] was added as a cosponsor of S. 581, a bill to amend the National Labor Relations Act and the Railway Labor Act to repeal those provisions of Federal law that require employees to pay union dues or fees as a condition of employment, and for other purposes.

S. 684

At the request of Mr. HATFIELD, the name of the Senator from Nevada [Mr. REID] was added as a cosponsor of S. 684, a bill to amend the Public Health Service Act to provide for programs of research regarding Parkinson's disease, and for other purposes.

S. 978

At the request of Mrs. HUTCHISON, the names of the Senator from Missouri [Mr. BOND], the Senator from North Carolina [Mr. FAIRCLOTH], the Senator from Utah [Mr. BENNETT], the Senator from New Mexico [Mr. BINGAMAN], the Senator from Wyoming [Mr. THOMAS], the Senator from Connecticut [Mr. LIEBERMAN], the Senator from Missouri [Mr. ASHCROFT], the Senator from Minnesota [Mr. GRAMS], the Senator from

Massachusetts [Mr. KERRY], and the Senator from Massachusetts [Mr. KENNEDY] were added as cosponsors of S. 978, a bill to facilitate contributions to charitable organizations by codifying certain exemptions from the Federal securities laws, to clarify the inapplicability of antitrust laws to charitable gift annuities, and for other purposes.

At the request of Mr. ROCKEFELLER, his name was added as a cosponsor of S. 978, supra.

S. 1183

At the request of Mr. HATFIELD, the name of the Senator from Alaska [Mr. MURKOWSKI] was added as a cosponsor of S. 1183, a bill to amend the Act of March 3, 1931 (known as the Davis-Bacon Act], to revise the standards for coverage under the Act, and for other purposes.

S. 1228

At the request of Mr. D'AMATO, the names of the Senator from Michigan [Mr. ABRAHAM] and the Senator from Alabama [Mr. HEFLIN] were added as cosponsors of S. 1228, a bill to impose sanctions on foreign persons exporting petroleum products, natural gas, or related technology to Iran.

S. 1316

At the request of Mr. BAUCUS, the name of the Senator from Michigan [Mr. LEVIN] was added as a cosponsor of S. 1316, a bill to reauthorize and amend title XIV of the Public Health Service Act (commonly known as the ''Safe Drinking Water Act''), and for other purposes.

At the request of Mr. KEMPTHORNE, the name of the Senator from Maine [Ms. SNOWE] was added as a cosponsor of S. 1316, supra.

At the request of Mr. CHAFEE, the name of the Senator from Washington [Mr. GORTON] was added as a cosponsor of S. 1316, supra.

At the request of Mr. FRIST, his name was added as a cosponsor of S. 1316, supra.

At the request of Mr. KYL, his name was added as a cosponsor of S. 1316, supra.

At the request of Mr. MACK, his name was added as a cosponsor of S. 1316, supra.

S. 1429

At the request of Mr. DOMENICI, the name of the Senator from Texas [Mrs. HUTCHISON] was added as a cosponsor of S. 1429, a bill to provide clarification in the reimbursement to States for federally funded employees carrying out Federal programs during the lapse in appropriations between November 14, 1995, through November 19, 1995.

SENATE RESOLUTION 196—RELATIVE TO THE DEATH OF THE REVEREND RICHARD HALVERSON

Mr. DOLE (for himself, Mr. DASCHLE, Mr. ABRAHAM, Mr. AKAKA, Mr. ASHCROFT, Mr. BAUCUS, Mr. BENNETT, Mr. BIDEN, Mr. BINGAMAN, Mr. BOND, Mrs. BOXER, Mr. BRADLEY, Mr. BREAUX, Mr. BROWN, Mr. BRYAN, Mr. BUMPERS, Mr. BURNS, Mr. BYRD, Mr. CAMPBELL, Mr. CHAFEE, Mr. COATS, Mr. COCHRAN, Mr. COHEN, Mr. CONRAD, Mr. COVERDELL, Mr. CRAIG, Mr. D'AMATO, Mr. DEWINE, Mr. DODD, Mr. DOMENICI, Mr. DORGAN, Mr. EXON, Mr. FAIRCLOTH, Mr. FEINGOLD, Mrs. FEINSTEIN, Mr. FORD, Mr. FRIST, Mr. GLENN, Mr. GORTON, Mr. GRAHAM, Mr. GRAMM, Mr. GRAMS, Mr. GRASSLEY, Mr. GREGG, Mr. HARKIN, Mr. HATCH, Mr. HATFIELD, Mr. HEFLIN, Mr. HELMS, Mr. HOLLINGS, Mrs. HUTCHISON, Mr. INHOFE, Mr. INOUYE, Mr. JEFFORDS, Mr. JOHNSTON, Mrs. KASSEBAUM, Mr. KEMPTHORNE, Mr. KENNEDY, Mr. KERREY, Mr. KERRY, Mr. KOHL, Mr. KYL, Mr. LAUTENBERG, Mr. LEAHY, Mr. LEVIN, Mr. LIEBERMAN, Mr. LOTT, Mr. LUGAR, Mr. MACK, Mr. MCCAIN, Mr. MCCONNELL, Ms. MIKULSKI, Ms. MOSELEY-BRAUN, Mr. MOYNIHAN, Mr. MURKOWSKI, Mrs. MURRAY, Mr. NICKLES, Mr. NUNN, Mr. PELL, Mr. PRESSLER, Mr. PRYOR, Mr. REID, Mr. ROBB, Mr. ROCKEFELLER, Mr. ROTH, Mr. SANTORUM, Mr. SARBANES, Mr. SHELBY, Mr. SIMON, Mr. SIMPSON, Mr. SMITH, Ms. SNOWE, Mr. SPECTER, Mr. STEVENS, Mr. THOMAS, Mr. THOMPSON, Mr. THURMOND, Mr. WARNER, and Mr. WELLSTONE) submitted the following resolution; which was considered and agreed to:

S. RES. 196

Whereas, the Reverend Dr. Richard Halverson became the 60th Senate Chaplain on February 2, 1981, and faithfully served the Senate for 14 years as Senate Chaplain;

Whereas, Dr. Halverson for more than 40 years was an associate in the International Prayer Breakfast Movement and Chairman of the Board of World Vision and President of Concerned Ministries;

Whereas, Dr. Halverson was the author of several books, including ''A Day at a Time'', ''No Greater Power'', ''We the People'', and ''Be Yourself * * * and God's''; and

Whereas, Dr. Halverson was graduated from Wheaton College and Princeton Theological Seminary, and served as a Presbyterian minister throughout his professional life, including being the senior pastor at Fourth Presbyterian Church of Bethesda, Maryland: Now, therefore, be it

Resolved, That the Senate has heard with profound sorrow and deep regret the announcement of the death of the Reverend Dr. Richard Halverson, late the Chaplain of the United States Senate.

Resolved, That the Secretary transmit an enrolled copy thereof to the family of the deceased.

Resolved, That when the Senate recesses or adjourns today, it recess or adjourn as a further mark of respect to the memory of the deceased.

AMENDMENTS SUBMITTED

THE SAFE DRINKING WATER ACT AMENDMENTS OF 1995

CHAFEE (AND OTHERS) AMENDMENT NO. 3068

Mr. CHAFEE (for himself, Mr. KEMPTHORNE, Mr. BAUCUS, Me. REID, Mr. GORTON, and Ms. SNOWE) proposed an amendment to the bill (S. 1316) to reauthorize and amend title XIV of the Public Health Service Act (commonly known as the ''Safe Drinking Water Act''), and for other purposes; as follows:

On page 19, line 23, insert ''(or, in the case of a privately-owned system, demonstrate that there is adequate security)'' after ''source of revenue''.

On page 20, line 24, insert ''and'' after ''fund;''.

On page 21, strike lines 1 through 4.

On page 21, line 5, strike ''(6)'' and insert ''(5)''.

On page 42, line 16, strike ''title'' and insert ''section, and, to the degree that an Agency action is based on science, in carrying out this title,''.

On page 69, line 24, strike ''level,'' and insert ''level or treatment technique,''.

On page 69, line 25, insert ''or point-of-use'' after ''point-of-entry''.

On page 70, line 1, strike ''controlled by the public water system'' and insert ''owned, controlled and maintained by the public water system or by a person under contract with the public water system''.

On page 70, line 6, strike ''problems.'' and insert ''problems. The Administrator shall not include in the list any point-of-use treatment technology, treatment technique, or other means to achieve compliance with a maximum contaminant level or treatment technique requirement for a microbal contaminant (or an indicator of a microbial contaminant). If the American National Standards Institute has issued product standards applicable to a specific type of point-of-entry or point-of-use treatment device, individual units of that type shall not be accepted for compliance with a maximum contaminant level or treatment technique requirement unless they are independently certified in accordance with such standards.''

Beginning on page 165, line 20, strike all through line page 166, line 2, and insert the following:

''(i) IN GENERAL.—For purposes of subparagraph (A), a connection to a system that delivers water by a constructed conveyance other than a pipe shall not be considered a connection, if—

''(I) the water is used exclusively for purposes other than residential uses (consisting of drinking, bathing, and cooking, or other similar uses);''.

On page 166, line 3, strike ''(aa)'' and insert ''(II)''.

On page 166, line 15, strike ''(bb)'' and insert ''(III)''.

Beginning on page 167, line 5, strike all through page 167, line 19.

On page 168, line 1, strike ''and'' and insert ''or''.

On page 168, lines 2 and 3, strike ''(I) and (II)'' and insert ''(II) and (III)''.

On page 168, line 3, strike ''and'' and insert ''or''.

On page 168, strike lines 4 through 6 and insert the following:

''(C) TRANSITION PERIOD.—A water supplier that would be a public water system only as a result of modifications made to this paragraph by the Safe Drinking Water Act Amendments of 1995 shall not be considered a public water system for purposes of the Act until the date that is two years after the date of enactment of this subparagraph, if during such two-year period the water supplier complies with the monitoring requirements of the Surface Water Treatment Rule and no indicator of microbial contamination is exceeded during that period. If a water supplier does not serve 15 service connections (as defined in subparagraphs (A) and (B)) or 25 people at any time after the conclusion of the two-year period, the water

supplier shall not be considered a public water system.''.

On page 178, line 21, strike ''180-day''.

On page 179, lines 6 and 7, strike ''180-day''.

On page 179, line 15, strike ''effect.'' and insert ''effect or 18 months after the notice is issued pursuant to this subparagraph, whichever is later.''.

On page 195, after line 20, insert the following:

''(e) PREVENTION AND CONTROL OF ZEBRA MUSSEL INFESTATION OF LAKE CHAMPLAIN.—

''(1) FINDINGS.—Section 1002(a) of the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 (16 U.S.C. 4701(a)) is amended—

''(A) by striking ''and'' at the end of paragraph (3)'

''(B) by striking the period at the end of paragraph (4) and inserting ''; and''; and

''(C) by adding at the end the following new paragraph:

''(5) the zebra mussel was discovered on Lake Champlain during 1993 and the opportunity exists to act quickly to establish zebra mussel controls before Lake Champlain is further infested and management costs escalate.''.

''(2) EX OFFICIO MEMBERS OF AQUATIC NUISANCE SPECIES TASK FORCE.—Section 1201(c) of such Act (16 U.S.C. 4721(c)) is amended by inserting '', the Lake Champlain Basin Program,'' after ''Great Lakes Commission''.

''(3) AQUATIC NUISANCE SPECIES PROGRAM.—Subsections (b)(6) and (i)(1) of section 1202 of such Act (16 U.S.C. 4722) is amended by inserting '', Lake Champlain,'' after ''Great Lakes'' each place it appears.

''(4) AUTHORIZATION OF APPROPRIATIONS.—Section 1301(b) of such Act (16 U.S.C. 4741(b)) is amended—

''(A) in paragraph (3), by inserting '', and the Lake Champlain Research Consortium,'' after ''Laboratory''; and

''(B) in paragraph (4)(A)—

''(i) by inserting after ''(33 U.S.C. 1121 et seq.)'' the following: ''and grants to colleges for the benefit of agriculture and the mechanic arts referred to in the first section of the Act of August 30, 1890 (26 Stat. 417, chapter 841; 7 U.S.C. 322)''; and

''(ii) by inserting ''and the Lake Champlain basin'' after ''Great Lakes region''.

On page 195, after line 20, insert the following:

''(f) SOUTHWEST CENTER FOR ENVIRONMENTAL RESEARCH AND POLICY.—

''(1) ESTABLISHMENT OF CENTER.—The Administrator of the Environmental Protection Agency shall take such action as may be necessary to establish the Southwest Center for Environmental Research and Policy (hereinafter referred to as 'the Center').

''(2) MEMBERS OF THE CENTER.—The Center shall consist of a consortium of American and Mexican universities, including New Mexico State University; the University of Utah; the University of Texas at El Paso; San Diego State University; Arizona State University; and four educational institutions in Mexico.

''(3) FUNCTIONS.—Among its functions, the Center shall—

''(A) conduct research and development programs, projects and activities, including training and community service, on U.S.-Mexico border environmental issues, with particular emphasis on water quality and safe drinking water;

''(B) provide objective, independent assistance to the EPA and other Federal, State and local agencies involved in environmental policy, research, training and enforcement, including matters affecting water quality and safe drinking water throughout the southwest border region of the United States; and

''(C) help to coordinate and facilitate the improvement of environmental policies and programs between the United States and Mexico, including water quality and safe drinking water policies and programs.

''(4) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Administrator $10,000,000 for each of the fiscal years 1996 through 2003 to carry out the programs, projects and activities of the Center. Funds made available pursuant to this paragraph shall be distributed by the Administrator to the university members of the Center located in the United States.''.

On page 195, after line 20, insert the following:

''(g) ESTROGENIC SUBSTANCES SCREENING PROGRAM.—

''(1) DEVELOPMENT.—Not later than 1 year after the date of enactment of this subsection, the Administrator shall develop a screening program, using appropriate validated test systems, to determine whether certain substances may have an effect in humans that is similar to an effect produced by a naturally occurring estrogen, or such other endocrine effect as the Administrator may designate.

''(2) IMPLEMENTATION.—Not later than 2 years after the date of enactment of this subsection, after obtaining review of the screening program described in paragraph (1) by the scientific advisory panel established under section 25(d) of the Act of June 25, 1947 (chapter 125), and the Science Advisory Board established by section 8 of the Environmental Research, Development, and Demonstration Act of 1978 (42 U.S.C. 4365), the Administrator shall implement the program.

''(3) SUBSTANCES.—In carrying out the screening program described in paragraph (1), the Administrator shall provide for the testing of all active and inert ingredients used in products described in section 103(e) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9603(e)), and may provide for the testing of any other substance if the Administrator determines that a widespread population may be exposed to the substance.

''(4) EXEMPTION.—Notwithstanding paragraph (3), the Administrator may, by regulation, exempt from the requirements of this subsection a biologic substance or other substance if the Administrator determines that the substance does not have any effect in humans similar to an effect produced by a naturally occurring estrogen.

''(5) COLLECTION OF INFORMATION.—

''(A) IN GENERAL.—The Administrator shall issue an order to a person that manufactures a substance for which testing is required under this subsection to conduct testing in accordance with the screening program described in paragraph (1), and submit information obtained from the testing to the Administrator, within a time period that the Administrator determines is sufficient for the generation of the information.

''(B) FAILURE TO SUBMIT INFORMATION.—

''(i) SUSPENSION.—If a person referred to in subparagraph (A) fails to submit the information required under such subparagraph within the time period established by the order, the Administrator shall issue a notice of intent to suspend the sale or distribution of the substance by the person. Any suspension proposed under this subparagraph shall become final at the end of the 30-day period beginning on the date that the person receives the notice of intent to suspend, unless during that period a person adversely affected by the notice requests a hearing or the Administrator determines that the person referred to in subparagraph (A) has complied fully with this paragraph.

''(ii) HEARING.—If a person requests a hearing under clause (i), the hearing shall be conducted in accordance with section 554 of title 5, United States Code. The only matter for resolution at the hearing shall be whether the person has failed to submit information required under this paragraph. A decision by the Administrator after completion of a hearing shall be considered to be a final agency action.

''(iii) TERMINATION OF SUSPENSIONS.—The Administrator shall terminate a suspension under this subparagraph issued with respect to a person if the Administrator determines that the person has complied fully with this paragraph.

''(6) AGENCY ACTION.—In the case of any substance that is found to have a potential adverse effect on humans as a result of testing and evaluation under this subsection, the Administrator shall take such action, including appropriate regulatory action by rule or by order under statutory authority available to the Administrator, as is necessary to ensure the protection of public health.

''(7) REPORT TO CONGRESS.—Not later than 4 years after the date of enactment of this subsection, the Administrator shall prepare and submit to Congress a report containing—

''(A) the findings of the Administrator resulting from the screening program described in paragraph (1);

''(B) recommendations for further testing and research needed to evaluate the impact on human health of the substances tested under the screening program; and

''(C) recommendations for any further actions (including any action described in paragraph (6)) that the Administrator determines are appropriate based on the findings.''.

CHAFEE (AND OTHERS) AMENDMENT NO. 3069

Mr. CHAFEE (for himself, Mr. KEMPTHORNE, Mr. BAUCUS, and Mr. REID) proposed an amendment to the bill, S. 1316, supra, as follows:

Beginning on page 61, line 11, strike all through page 62, line 16, and insert:

''(A) ADDITIONAL RESEARCH.—Prior to promulgating a national primary drinking water regulation for sulfate the Administrator and the Director of the Centers for Disease Control shall jointly conduct additional research to establish a reliable dose-response relationship for the adverse health effects that may result from exposure to sulfate in drinking water, including the health effects that may be experienced by groups within the general population (including infants and travelers) that are potentially at greater risk of adverse health effects as the result of such exposure. The research shall be conducted in consultation with interested States, shall be based on the best available, peer-reviewed science and supporting studies conducted in accordance with sound and objective scientific practices and shall be completed not later than 30 months after the date of enactment of this paragraph.

(B) PROPOSED AND FINAL RULE.—Prior to promulgating a national primary drinking water regulation for sulfate and after consultation with interested States, the Administration shall publish a notice of proposed rulemaking that shall supersede the proposal published in December, 1994. For purposes of the proposed and final rule, the Administrator may specify in the regulation requirements for public notification and options for the provision of alternative water supplies to populations at risk as a means of complying with the regulation in lieu of a best available treatment technology or other means. The Administrator shall, pursuant to the authorities of this subsection and after notice and opportunity for public comment, promulgate a final national primary drinking

water regulation for sulfate not later than 48 months after the date of enactment of this paragraph.''.

MURKOWSKI (AND OTHERS) AMENDMENT NO. 3070

Mr. MURKOWSKI (for himself, Mr. CHAFEE, Mr. KEMPTHORNE, Mr. BAUCUS, and Mr. REID) proposed an amendment to the bill, S. 1316, supra, as follows:

On page 195, after line 20, insert the following:

''(g) GRANTS TO ALASKA TO IMPROVE SANITATION IN RURAL AND NATIVE VILLAGES.—

''(1) IN GENERAL.—The Administrator of the Environmental Protection Agency may make grants to the State of Alaska for the benefit of rural and Native villages in Alaska to pay the Federal share of the cost of—

''(A) the development and construction of water and wastewater systems to improve the health and sanitation conditions in the villages; and

''(B) training, technical assistance, and educational programs relating to the operation and management of sanitation services in rural and Native villages.

''(2) FEDERAL SHARE.—The Federal share of the cost of the activities described in paragraph (1) shall be 50 percent.

''(3) ADMINISTRATIVE EXPENSES.—The State of Alaska may use an amount not to exceed 4 percent of any grant made available under this subsection for administrative expenses necessary to carry out the activities described in paragraph (1).

''(4) CONSULTATION WITH THE STATE OF ALASKA.—The Administrator shall consult with the State of Alaska on a method of prioritizing the allocation of grants under paragraph (1) according to the needs of, and relative health and sanitation conditions in, each eligible village.

''(5) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary for each of the fiscal years 1996 through 2003 to carry out this subsection.

CHAFEE (AND OTHERS) AMENDMENT NO. 3071

Mr. CHAFEE (for himself, Mr. KEMPTHORNE, Mr. BAUCUS, Mr. REID, Mr. GORTON, and Mrs. MURRAY) proposed an amendment to the bill, S. 1316, supra, as follows:

On page 64, after line 5, insert the following:

''(a) FILTRATION CRITERIA.—Section 1412(b)(7)(C)(i) is amended by adding at the end thereof the following: ''Not later than 18 months after the date of enactment of the Safe Drinking Water Act Amendments of 1995, the Administrator shall amend the criteria issued under this clause to provide that a State exercising primary enforcement responsibility for public water systems may, on a case-by-case basis, establish treatment requirements as an alterative to filtration in the case of systems having uninhabited, undeveloped watersheds in consolidated ownership, and having control over access to, and activities in, those watersheds, if the State determines (and the Administrator concurs) that the quality of the source water and the alternative treatment requirements established by the State ensure significantly greater removal efficiencies of pathogenic organisms for which national primary drinking water regulations have been promulgated or that are of public health concern than would be achieved by the combination of filtration and chlorine disinfection (in compliance with this paragraph and paragraph (8)).''.

On page 64, line 6, strike ''(a)'' and insert ''(b)''.

On page 64, line 31, strike ''(b)'' and insert ''(c)''.

CHAFEE (AND OTHERS) AMENDMENT NO. 3072

Mr. CHAFEE (for himself, Mr. KEMPTHORNE, Mr. BAUCUS, Mr. REID, Mr. DOMENICI, Mr. BINGAMAN, Mr. KYL, and Mrs. FEINSTEIN) proposed an amendment to the bill S. 1316, supra, as follows:

On page 195, after line 20, insert the following:

''(h) ASSISTANCE TO COLONIAS.—

''(1) DEFINITIONS.—As used in this subsection—

''(A) ELIGIBLE COMMUNITY.—The term 'eligible community' means a low-income community with economic hardship that—

''(i) is commonly referred to as a colonia;

''(ii) is located along the United States-Mexico border (generally in an unincorporated area); and

''(iii) lacks basic sanitation facilities such as a safe drinking water supply, household plumbing, and a proper sewage disposal system.

''(B) BORDER STATE.—The term 'border State' means Arizona, California, New Mexico and Texas.

''(C) TREATMENT WORKS.—The term 'treatment works' has the meaning provided in section 212(2) of the Federal Water Pollution Control Act (33 U.S.C. 1292(2)).

''(2) GRANTS TO ALLEVIATE HEALTH RISKS.—The Administrator of the Environmental Protection Agency and the heads of other appropriate Federal agencies are authorized to award grants to any appropriate entity or border State to provide assistance to eligible communities for—

''(A) the conservation, development, use and control (including the extension or improvement of a water distribution system) of water for the purpose of supplying drinking water; and

''(B) the construction or improvement of sewers and treatment works for wastewater treatment.

''(3) USE OF FUNDS.—Each grant awarded pursuant to paragraph (2) shall be used to provide assistance to one or more eligible community with respect to which the residents are subject to a significant health risk (as determined by the Administrator or the head of the Federal agency making the grant) attributable to the lack of access to an adequate and affordable drinking water supply system or treatment works for wastewater.

''(4) OPERATION AND MAINTENANCE.—The Administrator and the heads of other appropriate Federal agencies, other entities or border States are authorized to use funds appropriated pursuant to this subsection to operate and maintain a treatment works or other project that is constructed with funds made available pursuant to this subsection.

''(5) PLANS AND SPECIFICATIONS.—Each treatment works or other project that is funded by a grant awarded pursuant to this subsection shall be constructed in accordance with plans and specifications approved by the Administrator, the head of the Federal agency making the grant, or the border State in which the eligible community is located. The standards for construction applicable to a treatment works or other project eligible for assistance under title II of the Federal Water Pollution Control Act (33 U.S.C. 1281 et seq.) shall apply to the construction of a treatment works or project under this subsection in the same manner as the standards apply under such title.

''(6) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subsection such sums as may be necessary for fiscal years 1996 through 2003.''.

THOMAS (AND SIMPSON) AMENDMENT NO. 3073

Mr. KEMPTHORNE (for Mr. THOMAS, for himself and Mr. SIMPSON) proposed an amendment to the bill, S. 1316, supra; as follows:

On page 7, line 23 after ''the State).'' And the following: ''*Provided further,* in nonprimacy States, the Governor shall determine which State agency will have the authority to establish assistance priorities for financial assistance provided with amounts deposited into the State loan fund.''

BOND AMENDMENT NO. 3074

Mr. KEMPTHORNE (for Mr. BOND) proposed an amendment to the bill, S. 1316, supra; as follows:

On page 111, line 22 insert: ''except that the Administrator may provide for an extension of not more than 2 years if, after submission and review of appropriate, adequate documentation from the State, the Administrator determines that the extension is necessary and justified''.

MURKOWSKI (AND OTHERS) AMENDMENT NO. 3075

Mr. KEMPTHORNE (for Mr. MURKOWSKI for himself, Mr. STEVENS, Mr. KEMPTHORNE, Mr. BAUCUS, and Mr. REID) proposed an amendment to the bill, S. 1316, supra; as follows:

On page 28, line 3, before the period, insert ''(including, in the case of the State of Alaska, the needs of Native villages (as defined in section 3(c) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(c)))''.

CHAFEE (AND OTHERS) AMENDMENT NO. 3076

Mr. CHAFEE (for himself, Mr. KEMPTHORNE, Mr. BAUCUS, and Mr. REID) proposed an amendment to the bill, S. 1316, supra; as follows:

Beginning on page 179, line 16, strike section 28 of the bill and renumber subsequent sections accordingly.

CHAFEE (AND OTHERS) AMENDMENT NO. 3077

Mr. CHAFEE (for himself, Mr. KEMPTHORNE, Mr. BAUCUS, Mr. REID, Mr. D'AMATO, and Mr. MOYNIHAN) proposed an amendment to the bill, S. 1316, supra; as follows:

On page 168, line 7, strike ''GROUND WATER PROTECTION'' and insert ''WATERSHED AND GROUND WATER PROTECTION''.

On page 173, after line 7, insert the following:

''(g) WATERSHED PROTECTION DEMONSTRATION PROGRAM.—

''(1) The heading of section 1443 (42 U.S.C.) is amended to read as follows:

''grants for state and local programs

''(2) Section 1443 (42 U.S.C. is amended by adding at the end thereof the following:

''(e) WATERSHED PROTECTION DEMONSTRATION PROGRAM.—

''(1) IN GENERAL.—

''(A) ASSISTANCE FOR DEMONSTRATION PROJECTS.—The Administrator is authorized

to provide technical and financial assistance to units of State or local government for projects that demonstrate and assess innovative and enhanced methods and practices to develop and implement watershed protection programs including methods and practices that protect both surface and ground water. In selecting projects for assistance under this subsection, the Administrator shall give priority to projects that are carried out to satisfy criteria published and under section 1412(b)(7)(C) or that are identified through programs developed and implemented pursuant to section 1428.

''(B) MATCHING REQUIREMENTS.—Federal assistance provided under this subsection shall not exceed 35 percent of the total cost of the protection program being carried out for any particular watershed or ground water recharge area.

''(2) NEW YORK CITY WATERSHED PROTECTION PROGRAM.—

''(A) IN GENERAL.—Pursuant to the authority of paragraph (1), the Administrator is authorized to provide financial assistance to the State of New York for demonstration projects implemented as part of the watershed program for the protection and enhancement of the quality of source waters of the New York City water supply system. Demonstration projects which shall be eligible for financial assist shall be certified to the Administration by the State of New York as satisfying the purposes of this subsection and shall include those projects that demonstrate, assess, or provide for comprehensive monitoring, surveillance, and research with respect to the efficacy of phosphorus offsets or trading, wastewater diversion, septic system siting and maintenance, innovative or enhanced wastewater treatment technologies, innovative methodologies for the control of storm water runoff, urban, agricultural, and forestry best management practices for controlling nonpoint source pollution, operator training, compliance surveillance and that establish watershed or basin-wide coordinating, planning or governing organizations. In certifying projects to the Administrator, State of New York shall give priority to these monitoring and research projects that have undergone peer review.

''(C) REPORT.—Not later than 5 years after the date on which the Administrator first provides assistance pursuant to this paragraph, the Governor of the State of New York shall submit a report to the Administrator on the results of projects assisted.

''(3) AUTHORIZATION.—There are authorized to be appropriated to the Administrator such sums as are necessary to carry out this subsection for each of fiscal years 1997 through 2003 including $15,000,000 for each of such fiscal years for the purposes of providing assistance to the State of New York, to carry out paragraph (2).''.

On page 171, line 21, strike ''20,000,000'' and insert ''15,000,000''.

On page 171, line 24, strike ''35,000,000'' and insert '''30,000,000''.

On page 172, line 3, strike ''20,850,000'' and insert ''15,000,000''

On page 2, in the material following line 6, strike ''Sec. 25. Ground water protection.'' and insert ''Sec. 25. Watershed and ground water protection.''.

BOXER (AND OTHERS) AMENDMENT NO. 3078

Mrs. BOXER (for herself, Mr. DASCHLE, Mr. LAUTENBERG, and Mr. KOHL) proposed an amendment to the bill, S. 1316, supra; as follows:

Section 20, Page 140, line 11, add at the end the following new subparagraph:

(F) CONSUMER CONFIDENCE REPORTS.—

(i) IN GENERAL.—The Administrator shall issue regulations within three years of enactment of the Safe Drinking Water Act Amendments of 1995 to require each community water system to issue a consumer confidence report at least once annually to its water consumers on the level of contaminants in the drinking water purveyed by that system which pose a potential risk to human health. The report shall include, but not be limited to: information on source, content, and quality of water purveyed; a plainly worded explanation of the health implications of contaminants relative to national primary drinking water regulations or health advisories; information on compliance with national primary drinking water regulations; and information on priority unregulated contaminants to the extent that testing methods and health effects information are available (including levels of cryptosporidium and radon where states determine that they may be found).

(ii) COVERAGE.—Subsection (i) shall not apply to community water systems serving fewer than 10,000 persons or other systems as determined by the Governor, provided that such systems inform their customers that they will not be complying with Subsection (i). The state may by rule establish alternative requirements with respect to the form and content of consumer confidence reports

CHAFEE (AND OTHERS) AMENDMENT NO. 3079

Mr. CHAFEE (for himself, Mr. KEMPTHORNE, Mr. BAUCUS, and Mr. REID) proposed an amendment to the bill, S. 1316, supra; as follows:

On page 132, line 5, strike ''methods.'' and insert ''methods. Information requirements imposed by the Administrator pursuant to the authority of this subparagraph that require monitoring, the establishment or maintenance of records or reporting, by a substantial number of public water systems (determined in the sole discretion of the administrator), shall be established by regulation as provided in clause (ii).''.

AUTHORITY FOR COMMITTEES TO MEET

COMMITEE ON LABOR AND HUMAN RESOURCES

Mr. KEMPTHORNE. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be authorized to meet for a hearing on S. 1423, Occupational Safety and Health Reform and Reinvention Act, during the session of the Senate on Wednesday, November 29, 1995, at 9:30 a.m.

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

SELECT COMMITTEE ON INTELLIGENCE

Mr. KEMPTHORNE. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Wednesday, November 29, 1995, at 4:30 p.m. to hold a closed briefing regarding intelligence matters.

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

JOINT COMMITTEE ON THE LIBRARY

Mr. KEMPTHORNE. Mr. President, I ask unanimous consent that the Joint Committee on the Library be allowed to meet during the session of the Senate Wednesday, November 29, 1995, at 9:30 a.m. to conduct an oversight hearing of the Library of Congress.

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

SUBCOMMITEE ON ANTITRUST, BUSINESS RIGHTS, AND COMPETITION

Mr. KEMPTHORNE. Mr. President, I ask unanimous consent that the Subcommittee on Antitrust, Business Rights, and Competition on the Judiciary, be authorized to meet during the session of the Senate on Wednesday, November 29, 1995, at 10 a.m., to hold a hearing on franchise relocation in professional sports.

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

SUBCOMMITEE ON EAST ASIAN AND PACIFIC AFFAIRS

Mr. KEMPTHORNE. Mr. President, I ask unanimous consent that the Subcommittee on East Asian and Pacific Affairs of the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, November 29, 1995, at 2 p.m.

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

SUBCOMMITTEE ON FORESTS AND PUBLIC LAND MANAGEMENT

Mr. KEMPHORNE. Mr. President, I ask unanimous consent that the Subcommittee on Forests and Public Land Management of the Committee on Energy and Natural Resources be granted permission to meet during the session of the Senate on Wednesday, November 29, 1995, for purposes of conducting a subcommittee hearing which is scheduled to begin at 9:30 a.m. The purpose of this oversight hearing is to consider the administration's implementation of section 2001 of the Funding Recessions Act of 1995.

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

SUBCOMMITTEE ON IMMIGRATION

Mr. KEMPTHORNE. Mr. President, I ask unanimous consent that the Subcommittee on Immigration of the Committee on the Judiciary be authorized to hold a business meeting during the session of the Senate on Wednesday, November 29, 1995, at 9:30 a.m. in SR385.

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

SUBCOMMITTEE ON OVERSIGHT OF GOVERNMENT MANAGEMENT ON THE DISTRICT OF COLUMBIA

Mr. KEMPTHORNE. Mr. President, I ask unanimous consent that the Subcommittee on Oversight of Government Management and the District of Columbia, Committee on Governmental Affairs, be permitted to meet during a session of the Senate on Wednesday, November 29, 1995, at 9:30 a.m., to hold a hearing on S. 1224, the Administrative Dispute Resolution Act of 1995.

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

ADDITIONAL STATEMENTS

INTERSTATE COMMERCE COMMISSION SUNSET Dispute Resolution Act of 1995.

● Mr. SPECTER. Mr. President, I have sought recognition to speak in support

of the Interstate Commerce Commission Sunset Act of 1995 (S. 1396), which provides for the orderly transfer of the residual functions of the Interstate Commerce Commission to an independent Intermodal Surface Transportation Board within the Department of Transportation.

Pennsylvania is a rail-dependent State, and both shippers and railroads are in agreement that there should be no regulatory gap between the Commission and its successor agency during which no agency of the Federal Government has jurisdiction to enforce the Interstate Commerce Act. The fiscal year 1996 Transportation appropriations bill, H.R. 2002 (Pub. L. No. 104–50), provides no funding for the Commission effective December 31, 1995, making passage of the sunset legislation and a prompt House-Senate conference necessary to avoid disruption in the rail industry.

I am pleased to note that the managers' amendments included language that I have worked on and supported, which is designed to ensure that this legislation maintains the balance between the rights and remedies of carriers and shippers incorporated into the Staggers Rail Act of 1980, which provided new market freedoms to this industry. Several provisions in the reported bill could be interpreted as reregulating certain aspects of the railroad industry. These provisions, if left untouched, could undermine the Staggers Act reforms, which have worked well for both shippers and railroads. Therefore, I wish to thank Chairman PRESSLER, the distinguished Senator from South Dakota, and Senator EXON, the ranking minority member, who have worked closely with me, Senator SANTORUM, Senator MACK, and other Senators, in a bipartisan manner to finalize language that maintains a deregulated environment for our vital railroad industry as we streamline Government and provide for an orderly transition from the Interstate Commerce Commission to the Intermodal Surface Transportation Board.●

LAST RESPECTS TO PRIME MINISTER RABIN

● Mr. SIMON. Mr. President, I had the honor to speak at a tree planting across from the White House, a ceremony honoring the late Prime Minister Yitzhak Rabin, conducted by the Jewish National Fund.

It was the first time a tree had been planted in the area of the White House honoring a foreign leader.

My hope is that all parties in the Middle East, as well as other nations, including the United States, will do everything we can to pursue Yitzhak Rabin's dream of peace, a practical peace where neighbors can get along and trade and have normal discourse.

At the funeral tribute to Prime Minister Rabin in Israel, which I watched on television, nothing was more moving than the tribute of his teenage granddaughter, Noa Ben-Artzi Philosof.

You would have to be hard-hearted indeed not to have tears come to your eyes as she made this moving tribute to him.

I was proud of President Clinton's tribute, and I thought King Hussein and President Mubarak also did an excellent job.

But for those who may not have heard or read the tribute of Prime Minister Rabin's granddaughter, I ask that it be printed in the RECORD.

The tribute follows:

[Translated and transcribed by the New York Times]

A GRANDDAUGHTER'S FAREWELL

(By Noa Ben-Artzi Philosof)

Please excuse me for not wanting to talk about the peace. I want to talk about my grandfather.

You always awake from a nightmare, but since yesterday (Sunday) I was continually awakening to a nightmare. It is not possible to get used to the nightmare of life without you. The television never ceases to broadcast pictures of you, and you are so alive that I can almost touch you—but only almost, and I won't be able to anymore.

Grandfather, you were the pillar of fire in front of the camp and now we are left in the camp alone, in the dark; and we are so cold and so sad.

I know that people talk in terms of a national tragedy, and of comforting an entire nation, but we feel the huge void that remains in your absence when grandmother doesn't stop crying.

Few people really knew you. Now they will talk about you for quite some time, but I feel that they really don't know just how great the pain is, how great the tragedy is; something has been destroyed.

Grandfather, you were and still are our hero. I wanted you to know that every time I did anything, I saw you in front of me.

Your appreciation and your love accompanied us every step down the road, and our lives were always shaped after your values. You, who never abandoned anything, are now abandoned. And here you are, my ever-present hero, cold, alone, and I cannot do anything to save you. You are missed so much.

Others greater than I have already eulogized you, but none of them ever had the pleasure I had to feel the caresses of our warm, soft hands, to merit your warm embrace that was reserved only for us, to see your half-smile that always told me so much, that same smile which is no longer, frozen in the grave with you.

I have no feelings of revenge because my pain and feelings of loss are so large, too large. The ground has been swept out from below us, and we are groping now, trying to wander about in this empty void, without any success so far.

I am not able to finish this; left with no alternative. I say goodbye to you, hero, and ask you to rest in peace, and think about us, and miss us, as down here we love you so very much. I imagine angels are accompanying you now and I ask them to take care of you, because you deserve their protection.●

MARINE CORPS ANNIVERSARY OBSERVANCE

● Mr. WARNER. Mr. President, I attended the Marine Corps Anniversary Observance at the Marine Corps War Memorial. The speaker at those ceremonies was our colleague from New Hampshire, BOB SMITH. As a former marine, I was very impressed with Senator SMITH's remarks, and I ask that they be printed in the RECORD for all—Marines and those who wish they were—to read.

The remarks follow:

REMARKS OF SENATOR BOB SMITH—MARINE CORPS 220TH BIRTHDAY

Thank you very much, General Krulak. Secretary Perry, Secretary Dalton, General Shalikashvili, Senator WARNER, Colonel Dotter, and distinguished guests. It is a great honor to join with you all today in commemorating the 220th birthday of the United States Marine Corps. Before we begin, I want to take this opportunity to commend you personally, General Krulak, on the superb readiness of your troops, and for your outstanding leadership as commandant of the Marine Corps.

It is fitting that today's commemoration coincides with the observance of Veterans Day. Indeed, as our Nation pauses to reflect upon the historical sacrifices of its warriors, what better place for us to congregate that here at this great shrine. What better way to honor our Nation's veterans than to celebrate 220 years of Marine Corps history.

As you know, I was not a marine. However, I took my share of ''incoming'' on the floor of the U.S. Senate fighting the battle for those M1A1 tanks and MPS ships, and I am proud of it. I am a marine in spirit, and I have a letter from General Mundy to prove it.

The Marine Corps was created on November 10, 1775 when the Continental Congress decreed that two battalions of Marines be organized under the direction of Captain Samuel Nicholas, the first commandant.

Recruitment procedures being somewhat different back then, the Marines were recruited at Tun Tavern in Philadelphia. Although their indoctrination was not quite as rigorous as a trip through San Diego, Parris Island, or Quantico, these pioneering Marines made history by launching an amphibious landing at New Providence Island in the Bahamas, capturing a British fort and securing its arms and powder for Washington's Army. They later went on to fight at such locations as Trenton, Morristown. Penobscot Bay, and Fort Mifflin.

In the two centuries since those colonial battles, the size and structure of the Marine Corps has evolved, doctrine has changed, and areas of operational responsibility have expanded. The corps has emerged as a truly global force, deploying to Central and South America, Europe, Asia, and the Middle East, with the status of being the first to fight.

But what has never changed, and what continues to distinguish the United States Marine Corps from any other fighting force in the world, is its unique culture and character.

The Marine Corps is rich with tradition, its men and women strong on character and conviction. Honor discipline, valor, and fidelity are the corps virtues; dedication, sacrifice, and commitment its code. To those who willingly join this elite society, service is not merely an occupation, it is a way of life. Once a marine, always a marine.

It is this way of life, this absolute, unwavering commitment to duty, honor, and country, that has distinguished the United States Marine Corps from every other fighting force in history. And it is this selfless dedication, manifested through uncountable examples of battlefield valor, that has preserved our freedom and enabled our nation to prosper.

But there have been costs. Tremendous costs. Look at the costs of Iwo Jima. Between February 19th and March 26th 1945, nineteen-thousand Americans were wounded

and seven thousand were killed in the campaign to capture that strategic four mile island. Against tremendous adversity, our marines persevered and prevailed in this critically important campaign. Four of the men depicted in this memorial died within days of raising the flag.

But those of us who have served in the Armed Forces and gone to war know that freedom is never free. We knew it when we enlisted, we know it today. So many of our brave soldiers, sailors, airmen, and marines have perished in defense of freedom. So many more have been wounded or disabled. Each of us has suffered the loss of a fallen comrade or loved one.

This veterans day has a very special significance for me. For it was 50 years ago that I lost my father on active duty during World War II. He was a naval aviator who flew combat missions in the South Pacific.

He knew the risks, he knew them well. And he accepted them. The stakes were too high not to. My father gave his life in service to his Nation. And on this very special occasion, when I am so honored to join with you today, I want to pay tribute to my father and mother who, together, rest on a quiet little hillside in Arlington Cemetery. Like my dad, my mother never wavered in her love of country, even when she saw her only two sons depart for Vietnam.

Freedom is never free.

But some things are worth fighting for. Some universal principles of freedom, of morality, of human dignity, and of right and wrong must be defended, no matter what the costs. And through thick and thin, the United States Marine Corps has answered the Nation's call, remaining true to its convictions and determined in its vow to be most ready when the Nation is least ready.

Whether it be the colonial battles at new providence island and Trenton, or the historic campaigns at Belleau Wood, Guadalcanal, Iwo Jima, and Inchon, the marines have always delivered for our Nation for the cause of freedom.

And today, whether rescuing American citizens in Rwanda, maintaining the watch off Somalia, conducting migrant rescue and security operations in the Caribbean and ashore in Jamaica, Cuba, and Haiti, responding to crises in the Persian gulf, or rescuing downed pilots in Bosnia, the Marine Corps continues to deliver on its commitment to the American people and the United States Constitution. They even survived the media onslaught when they landed in Somalia.

When I think back upon the uncountable acts of heroism and sacrifice by our marines, I am always reminded of the words of Admiral Chester Nimitz following the battle of Iow Jima.

From the fleet, Admiral Nimitz concluded, and I quote, ''Among the Americans who served on Iwo Island, uncommon valor was a common virtue.'' Unquote.

Let me briefly provide an example of the kind of valor to which Admiral Nimitz was referring. On February 23, 1945, a young marine corporal named Hershel Williams earned the Congressional Medal of Honor at Iwo Jima. When marine tanks were unable to open a lane for the infantry through a network of concrete pillboxes and buried mines, Corporal Williams struck out on his own to suppress the Japanese onslaught.

Corporal Williams fought desperately for 4 hours, covered by only 4 riflemen, preparing demolition charges and using a flamethrower to wipe out multiple enemy positions.

On one occasion, he daringly mounted a pillbox under heavy fire, inserting the nozzle of his flamethrower through the air vent, and destroying the enemy guns that were ravaging our troops.

According to the Medal of Honor description, Corporal Williams' unyielding determination and extraordinary heroism in the face of ruthless enemy resistance were directly instrumental in neutralizing one of the most fanatically defended Japanese strongholds, enabling his company to reach its objective.

This is the kind of uncommon valor that Admiral Nimitz was talking about. But one does not have to reach back into history to find heroism. It is right here in front of, and around me, today. The highest decorations that our Nation bestows are worn on the chest of many of you here today. It is you who carry the torch of freedom, and you who continue the legacy of Corporal Williams and the millions of other marines who have served our Nation. And you do it willingly, sometimes without receiving the credit you so richly deserve.

Though the world remains dangerous, and the future uncertain, there is one constant that we as Americans can take great pride and comfort in. That is the fact that our United States Marine Corps remains on station, throughout the world, 24 hours a day, 365 days a year, every year, defending our freedom and preserving our security.

The honor, the dedication, the sacrifice, and, yes, the uncommon valor of every marine who has served before lives on through those of you who stand watch today. As we honor this history, we should pause to reflect upon the 275 Marine Corps soldiers who are still listed as POW/MIA from Vietnam, Korea, and other wars. They are always in our hearts.

I know that my friends in the Navy, Army, and Air Force will understand when I take the liberty of saying to General Krulak and all members of the Marine Corps—past, present and future—Semper fi.

Thank you very much.●

CHINA-UNITED STATES TIES WARM A BIT AS CHINA-TAIWAN RELATIONS CHILL

Mr. SIMON. Mr. President, I have felt for some time that the United States made a mistake in recognizing the People's Republic of China and derecognizing Taiwan, sometimes referred to as the Republic of China.

My position for a long time was that we should recognize both Chinas, as we recognized both Germanys. That did not prevent East Germany and West Germany from uniting as one country.

But when the mistake was made of playing the China card, in large measure in response to the Soviet Union and its perceived threat, we had set up a situation that potentially could mean military trouble in Asia.

The New York Times carried a story on Saturday, November 18, by Patrick E. Tyler that talks about an improvement in United States ties but a worsening of China-Taiwan ties.

I am concerned about any leadership that could emerge in dictatorial China that might be a threat to the free Government of Taiwan.

I hope that our military leaders and our diplomatic leaders will not pussyfoot around in making clear that there would be serious repercussions if China were to invade Taiwan.

I ask that the article be printed in the RECORD.

The article follows:

CHINA-U.S. TIES WARM A BIT AS CHINA-TAIWAN RELATIONS CHILL

(By Patrick E. Tyler)

BEIJING, Nov. 17.—China and the United States made new progress today in resuming a program of high-level military contacts by agreeing to an exchange of visits of their top military officers next year.

But American defense officials visiting here this week reported that during private conversations they encountered trenchant rhetoric and signs of unrelenting determination by Beijing's military and civilian leaders to undermine the rule of the President of Taiwan, Lee Teng-hui.

In recent days, China has restated its intention to use all means, including military intimidation and force if necessary, to end what Beijing considers a drive by Mr. Lee to achieve independence for Taiwan.

Mr. Lee insists he is only seeking greater international recognition for the island, which has been estranged from the mainland since the nationalists fled there after their defeat by the Communists in 1949.

As three days of talks ended, the Pentagon was receiving reports that China had begun a new military exercise off its southeastern coast near Taiwan, military officials here said.

It followed a Taiwanese drill earlier in the week intended to demonstrate the island's ability to repulse an invasion from the mainland.

The visit of the American delegation led by Joseph S. Nye, the Assistant Secretary of Defense for International Security Affairs, was the first by American military officials since the diplomatic rift that followed a White House decision to allow Mr. Lee to make a private visit to the United States in June.

And it demonstrated that United States-China relations are recovering at a time of unremitting military tension across the Taiwan Strait that could lead to another rupture in relations and, perhaps, military conflict.

''The Chinese have a military operation starting right now,'' an official traveling with Mr. Nye said tonight. ''And what is clear is that China is brushing off military plans and operational contingencies that they haven't thought about since the 1950's. This is an issue we are very concerned about.''

Mr. Nye and officials traveling with him said that communication between China and the United States is improving in some areas, but ''there was no give whatsoever'' on Taiwan, one official said.

''Every single person referred to Taiwan, and their point was that every Chinese is united on this question,'' the official said.

''It was interesting because they made a comparison with our system. They said you may have differences in your Congress, but in China we are all united that there is only one China and Taiwan is part of China.''

Chinese military leaders, during extensive closed door talks with the American delegation, engaged in ''subtle exploration'' of how the United States would respond in the event of a military crisis over Taiwan, one official said.

But the American officials refused to discuss United States contingency planning. ''We stand for peaceful resolution of disputes across the Taiwan Strait,'' Mr. Nye said at a news conference today.

Any use of force by China against Taiwan ''would be a serious mistake'' and, he added, continued military exercises near Taiwan ''are not helpful.''

Mr. Nye announced that the Chinese Defense Minister, Gen. Chi Haotian, would visit Washington next year and that Gen. John

Shalikashvili, Chairman of the Joint Chiefs of Staff, would pay a reciprocal visit to Beijing.

Visits by American and Chinese warships to each other's ports will also resume, Mr. Nye said.●

CHARITABLE GIVING PROTECTION ACT

● Mr. D'AMATO. Mr. President, I am pleased to be a cosponsor of S. 978, the Charitable Giving Protection Act of 1995, introduced by Senators HUTCHISON and DODD.

Charitable organizations serve a vital and unique role in meeting the needs of the American people. Religious, educational, benevolent, fraternal, and other charitable organizations depend on donations to fund their operations. Congress must see to it that charitable giving is encouraged to ensure that these critical donations continue.

Charitable gift annuities enable individuals to make a donation to charity and receive lifetime interest payments based on the donation's return. The SEC has determined that these types of donations do not involve an investment strategy and thus are not securities that would otherwise have to be registered.

Recently, however, a lawsuit has put into question whether charitable income funds need to be registered under the Federal securities laws. The threat of litigation would deter individuals from making this type of donation and prevent charitable organizations from raising funds in this manner. S. 978 will allow charitable institutions to continue raising vital funds through special investments and charitable gift annuities—without the threat of litigation.

The Charitable Giving Protection Act clarifies that the charitable income funds are not required to register under the Federal securities laws. This legislation would codify the longstanding SEC practice of exempting charitable organizations from registration requirements.

This legislation maintains critical investor protection provisions of the Federal securities laws. It does not exclude charitable organizations from the antifraud or disclosure provisions of the Federal securities laws. These important investor provisions must be retained to protect individuals who make the donations to charitable organizations.

This legislation provides the appropriate relief to charities so they can raise and manage their money without compromising investor protections. The chief watchdog of the securities markets, the SEC, also supports the goals of this legislation. During House Commerce Committee hearings on a companion bill, the SEC's Director of the Division of Investment Management, Barry Barbash, testified: ''the Commission believes that the Philanthropy Protection Act provides an appropriate level of investor protection while not encumbering charitable organizations with the burdens of full compliance with the securities laws.''

I am pleased to be a cosponsor of S. 978. Last night, the House companion bills, H.R. 2145, the Philanthropy Protection Act and H.R. 2525, the Charitable Gift Annuity Antitrust Relief Act of 1995 passed by a unanimous vote of the House of Representatives. I urge the Senate to act quickly on this important legislation.●

HONORING SHIM KANAZAWA, KINJI KANAZAWA, AND SPARK M. MATSUNAGA

● Mr. INOUYE. Mr. President, I would like to honor three extraordinary gifted individuals who share many things in common: love of country and an undying commitment to serve their fellow citizens. Shim and Kinji Kanazawa and our beloved colleague, the late Spark M. Matsunaga are to be commended for the time, effort and many years of outstanding service that they have given to improving the quality of life for the people of Hawaii. They are indeed role models that many can only hope to emulate.

The eldest of 11 children of Torazo and Saki Rusaki, Shimeiji, or Shim as she is more familiarly known, was born in Kamuela, HI. She attended schools in Waimea, Hilo, and Boston.

At the time when World War II broke out, Shim assisted the Swedish Vice-Consulate, which had the responsibility for protecting the interests of resident Japanese aliens. She advised the Vice-Consulate to provide a variety of services including assistance with business and personal affairs, reuniting internees with their families, arranging for transportation, and escorting many to the faraway camps. The American Red Cross later awarded Shim a special citation for the care and compassion she displayed to those she assisted.

In 1946, while working for the Veterans Administration, Shim met her husband, Kinji. The following year they were married and immediately moved to Boston where Kinji attended law school and Shim studied at the Chamberlain School of Design and Retailing. Upon completion of their studies, they returned to Honolulu and Shim continued her work for the betterment of the community.

Shim served as an active volunteer member of many organizations including the Lawyers Wives Club, for which she served as president, and the Commission on Children and Youth. Shim was the first nisei woman to serve on the board of Aloha United Way, and the first woman director and chair to serve on the board of Kuakini Medical Center. She was appointed by former Gov. William Quinn to chair the Life and Law Committee to study laws affecting family life and youth, which spearheaded the creation of the Family Court. Shim actively participated on the Elder Affairs Policy Advisory Board and chaired the Commission on Aging. She was also the driving force in the planning of Hawaii's participation in the White House Conference on Aging, serving as chair in 1981 and 1995, and for more than 10 years, Shim has been an active board member of the Moiliili Community Center.

In 1990, on behalf of the Moiliili Hongwanji Mission, Shim applied for a grant from the National Federation of Interfaith Volunteer Caregiver and founded Project Dana, which developed into a very successful program of volunteer caregiving for the frail elderly. Today, she serves on the Robert Wood Johnson Faith in Action National Advisory Committee and is a trustee/treasurer of the National Federation of Interfaith Volunteer Caregivers.

Shim's extraordinary efforts to care for and serve the community has earned her many honors. On May 13, 1990, the Board of Regents of the University of Hawaii at Manoa bestowed upon her the honorary degree of Humane Letters for her deep concern and humanitarian efforts to improve the quality of life for all people. On April 12, 1995, our State Senate honored Shim for her devoted and exemplary service to the people of Hawaii, and on May 11, 1995, the Public Schools Foundation honored her for her more than 20 years of continuous service as a full time executive volunteer at the local and national level.

Kinji Kanazawa is the son of Sakijiro and Haru Kanazawa. He was born and raised in Moiliili with his twin brother Kanemi and five older sisters. Kinji attended Kuhio Elementary, Washington Intermediate, McKinley High School, and the University of Hawaii at Manoa. Kinji worked in real estate, and during World War II, for the Federal War Housing Administration which built about 1,000 temporary homes in Manoa Valley. After the war, he attended Boston University Law School.

Kinji headed the State Real Estate Commission, taught at the University of Hawaii, and operated his own real estate school where he trained over 6,000 agents. On April 3, 1995, he was duly admitted as an Attorney and Counselor of the Supreme Court of the United States of America.

Kinji is credited with saving the Moiliili Community Center during World War II, when most Japanese-owned land was confiscated by the Government under martial law. The military governor refused to allow the Moiliili Community Association to acquire the Japanese Language School unless the Japanese Board of Directors was replaced by caucasians. Kinji persuaded several caucasian community leaders to become board members. As soon as the emergency was over, they willingly resigned to enable the former Moiliili leaders to become board members. Kinji and I recently co-chaired the Capitol Fund Drive to construct the Weinberg Building which is now the Thrift Shop. He has continuously led the board of trustees of the Moiliili Community Center for the past 50

years. Kinji has also served the Moiliili Hongwanji Mission as the president of the temple organization for over 22 years.

The late Spark M. Matsunaga was born on October 8, 1916, on the Island of Kauai, to Kingoro and Chiyono Matsunaga, who had emigrated from Japan to work on a sugar plantation. He worked at many jobs through high school and graduated with honors from the University of Hawaii, where he received a degree in education.

At the time World War II broke out, Spark was a second lieutenant in the U.S. Army. When President Roosevelt permitted the formation of all-Japanese units, Spark became a member of the 100th Infantry Battalion, which later became a part of the 442nd Regimental Combat Team. Whatever assignments Spark received, he performed with skill and bravery. He fought in the historic battles of Monte Cassino, Anzio and the liberation of Rome. He was wounded twice and earned the Bronze Star Medal for heroism.

Using the GI bill, Spark went to Harvard Law School and received his law degree. He went to work as an assistant prosecuting attorney in Honolulu and was elected to the Territorial House of Representatives from 1954 to 1959, and serving as majority leader in 1959.

In 1962, Spark came to Washington and served in the U.S. House of Representatives for seven terms. In 1976, he was elected to the U.S. Senate. He served with much distinction as a member of the Finance Committee, where he was a ranking member, and chairman of the Subcommittee on Taxation and Debt Management; on the Labor and Human Resources Committee, and chairman of its Subcommittee on Aging; and on the Veterans' Affairs Committee.

Spark will always be respected for his outstanding legislative record that fulfilled his visions of peace, international cooperation, and assistance to those in need. He had always wanted to be remembered as a friend of peacemakers. He never forgot the horrors of war. He was determined that our Nation would devote itself to the pursuit of peace. In 1984, Spark's 22 years of lobbying efforts resulted in the establishment of the U.S. Institute for Peace.

As a ranking member of the Veterans' Affairs Committee, Spark's imprint could be seen on virtually every major bill that passed the committee. In 1987, he engaged in efforts to establish a veterans medical center in Hawaii, to care for the aging and ailing military veterans. At that time, I committed myself to carrying on Spark's endeavor and ask that the veterans hospital would forever bear his name, in remembrance of his contributions on behalf of our Nation's veterans. I am pleased to report today, the Congress has appropriated approximately one-third of the total funds to establish the Spark M. Matsunaga Department of Veterans Affairs Medical Center, and I remain hopeful that Spark's endeavor will someday become a reality.

Spark was indeed a voice of compassion for the homeless, as well as the physically and mentally ill. When it may have been unpopular to do so, he waged a campaign for justice for Americans of Japanese ancestry who were interned during World War II. Spark went from office to office seeking cosponsors for a measure authorizing an apology and monetary reparations for Japanese-Americans whose patriotism was questioned. This measure was enacted in 1988.

I will always remember Spark for these achievements, his friendly personality and love of Japanese poetry.

Shim and Kinji Kanazawa's and the late Spark M. Matsunaga's extraordinary lifelong contributions to the State of Hawaii and to our Nation will not be forgotten.●

IMMIGRATION: WHERE TO GO FROM HERE

● Mr. ABRAHAM. Mr. President, I would like to bring to the attention of my Senate colleagues a piece that appeared in the November 27 edition of the Wall Street Journal entitled ''Immigration: Where to Go From Here?'' In this piece, the Journal asked a panel of opinion-makers—ranging from Jack Kemp to former New York Mayor Edward Koch to our colleague BEN NIGHTHORSE CAMPBELL—about the impact of legal immigration on America's society and economy. I think that the views expressed in this article will be helpful to my colleagues as we debate immigration reform in the coming months. I ask that the article be printed in the RECORD.

The article follows:

[From the Wall Street Journal, Nov. 27, 1995]

IMMIGRATION: WHERE TO GO FROM HERE

Jack Kemp is a co-director of Empower America, a conservative advocacy organization.

Some immigration policies badly need reform, especially those having to do with illegal immigration. Under the 1986 immigration reform act, for example, it's illegal to hire an undocumented alien, and hard and costly even to hire a legal one. By contrast, the law allows, and in many cases legally mandates, payment of welfare, medical, education and other benefits.

A better, more American, policy would be to make it easy for immigrants to work—for example, with a generous guest worker program and low-cost i.d. for participants. We can design a policy that would be just and would create better incentives, but would make it harder to get welfare payments. For instance, the U.S. could more readily accept immigrants who take a pledge not to go on welfare (a pledge many have already taken).

With such policies, we not only can ''afford'' to keep the golden door open; we will attract the same type of dynamic men and women who historically helped build this immigrant nation. Let's agree to reform the welfare state and not allow America to be turned into a police state.

Edward I. Koch is a former mayor of New York City.

The U.S. continues to benefit from the influx of legal immigrants. Just to take a few examples: In Silicon Valley, one out of every three engineers and microchip designers is foreign born; in Miami, Cuban immigrants have revitalized a once decaying city; and in New York, foreign nationals serve as CEOs of banking institutions, as senior managers of international companies, and as investors and entrepreneurs.

What the restrictionist legislative proposals seem to ignore is the critical distinction between legal and illegal immigration. The number of legal immigrants we admit each year is limited and manageable. Fewer than 25,000 immigrants received labor certifications (the prerequisite for obtaining permanent resident status based on job skills) last year.

Under existing law, legal immigrants must establish when coming here that they have sufficient assets to sustain themselves or that they have a job with a salary that will ensure their not becoming dependent on welfare. Lacking these two, they are required to provide an affidavit from a sponsor, usually a family member, who will be legally responsible to make sure the immigrant and his family will never become public charges. These commitments should be made enforceable.

I do not believe that the U.S. would be the world's only superpower if not for the super energy provided by the annual influx of legal immigrants. I don't want to change that.

Stephen H. Legomsky is a professor of international and comparative law at Washington University School of Law, St. Louis.

The U.S. has two venerable traditions. One is to admit immigrants; the other is to complain that today's immigrants are not of the same caliber as yesterday's. In actuality, today's immigrants are just as resourceful as their predecessors, and they are more vital to American industry and to the American consumer than ever before. Imported laborers used to be valued mainly for their muscle. In today's high-tech global economy, brainpower has become the more valuable resource. American companies and universities compete with their foreign counterparts for the world's greatest minds. Why donate this talent to our global competitors when we can use it ourselves?

Yes, immigrants take jobs. But they also create jobs by consuming goods and services, lending their expertise to newly vibrant American export companies, starting businesses and revitalizing cities.

Yes, some immigrants receive welfare. But immigrants also pay taxes—income, sales, property, gasoline and Social Security. For federal, state and local governments combined, immigrants actually generate a net fiscal surplus.

Of course, immigration does far more than this. It reunites husbands with wives and parents with children. It enriches us culturally. It is, ultimately, the quintessential American value.

Peter Brimelow is the author of ''Alien Nation: Common Sense About America's Immigration Disaster'' (Random House).

Immigration policy is broke and needs fixing. The perverse selectivity of the 1965 Immigration Act has resulted in an inflow vastly larger and more unskilled than promised. Moreover, in the lull since the 1890–1920 immigration wave, the American welfare state was invented. Its interaction with mass immigration is paradoxical. At the turn of the century, 40% of all immigrants went home, basically because they failed in the work force. Now immigrants are significantly into welfare (9.1% vs. 7.4% for native-born Americans, maybe 5% for native-born whites). And net immigration is some 90%.

The real economic question about immigration, however, is: Is it necessary? Does it do anything for the native-born that they could not do for themselves? Here there is a consensus: no. Indeed, the best estimate of the post-1965 influx's benefit to the native-born, by University of California, San Diego economist George J. Borjas, is that it is nugatory: perhaps one-tenth of 1% of gross domestic product in total. America is being transformed for—nothing.

Current legislation usefully reduces numbers. But irresponsible politicians and pundits will prevent a full Canadian-style reorientation to favoring immigrants with skills and cultural compatibility such as English proficiency, or giving consideration to guest workers, before the inevitable backlash compels a total cut-off.

Gregory Fossedal is founder and CEO of the Alexis de Tocqueville Institution, Arlington, VA.

Immigrants pay $25 billion more in federal taxes than they use in services, according to an Urban Institute estimate. Preliminary data on patents, small business startups, and city and state unemployment all indicate immigrants generate net output and jobs. For a smaller budget deficit we should run a people surplus.

Some want to ''skim the cream''—letting in lots of engineers and millionaires, but fewer family members, refugees and ''low-skilled'' immigrants. Tempting, but the brilliant Indian and Chinese programmers working for Microsoft often have wives or husbands or parents. Many American executives need an affordable au pair: And the George Soroses or Any Groves of tomorrow often have nothing when they come. They bus tables or clean hotel rooms before they build Fortune 500 companies. It's a mistake for Vice President Al Gore to try to out-think capital markets. Why should Sen. Alan Simpson be smarter than the labor market?

We should sharpen the programmatic distinction between being in the U.S. and being a U.S. citizen. Make it easy to work or travel—but confer government benefits on citizens, not on people who merely happen to be here (a change included in the House welfare reform). This would end the shibboleth that immigrants are costly, and ease legitimate concern that America is losing its English-speaking core. Then there would be support for the reform we really need—to let in more immigrants.

Barbara Jordan chairs the U.S. Commission on Immigration Reform.

It is because we benefit from lawful immigration that reform is necessary. The bipartisan USCIR recommends a comprehensive strategy to deter illegal immigration: better border management; more effective enforcement of labor and immigration laws; benefits policies consistent with immigration goals: prompt removal of criminal aliens. Most illegal aliens come for jobs, so reducing that magnet is key. Employers need tools to verify work authorization that fight fraud and discrimination, reduce paperwork and protect privacy. The most promising option: electronic validation of the Social Security number all workers already provide after they are hired.

A well-regulated legal immigration system sets priorities. Current policy does not. More than one million nuclear families are separated, awaiting visas that will not be available for years. We recommend using extended family visas to clear this backlog. Unskilled foreign workers are admitted while many of our own unskilled can't find jobs. We recommend eliminating this category. A failed regulatory system prevents timely hiring of skilled foreign professionals even when employers demonstrate an immediate need. We recommend a simpler, less costly system based on market forces. We still have a Cold War refugee policy. To maintain our commitment to refugees, we should rethink our admissions criteria.

These reforms will further the national interest.

Scott McNealy is chairman and CEO, Sun Microsystems Inc., Palo Alto, Calif.

Sun Microsystems is an American success story, a company that has benefited profoundly from the employment of highly skilled legal immigrants. Founded in 1982 by individuals from three countries—Vinod Khosla (India), Any Bechtolsheim (Germany), and Bill Joy and myself (U.S.)—today Sun has more than $6 billion in annual revenues and more than 15,500 employees worldwide. Our latest technology effort was headed by an Indian national and worked on by about 2,000 employees from around the world.

While illegal immigration is a problem that needs to be addressed, there are very real benefits to the U.S. economy from the employment of highly skilled legal immigrants.

The legislation that is moving through Congress today, if approved, will hurt Sun, and the industry. With at least half of our revenue earned outside the U.S., and the bulk of our R&D conducted inside the U.S., we need to hire the best and brightest engineers and scientists, regardless of their place of birth, to stay globally competitive. And even though Sun is devoting considerable resources both to training our employees and to educating students from kindergarten through university, we are still confronted with a shortage of U.S. workers with state-of-art, leading-edge engineering knowledge. We must be able to hire highly skilled legal immigrants now or we may miss a product cycle in this fast-paced industry. Miss one product cycle, you're seriously hurt; miss two, you're history.

If Sun loses its ability to compete and recruit globally, our employees and shareholders lose and ultimately the U.S. loses.

George E. Pataki is the governor of New York.

In my hometown of Peekskill, N.Y., where my immigrant grandparents lived, the homes and flats that were rented by immigrants from Hungary, Italy and Ireland in the early 20th century are now rented by new immigrants from Peru, Mexico and East Asia. In the early morning you can see many of these new immigrants waiting for rides and for work as they begin their long days as gardeners and laborers. Their work ethic and their dreams for a better future parallel the work ethic of America's earlier immigrants.

While the federal government must improve the policing of our borders and assure that immigration is in fact legal, Congress must avoid the temptation to pass restrictive measures like California's Proposition 187. This is America, not Fortress America.

Let those who share our values as Americans—hard work, individual responsibility and a love for this country—continue to strengthen our unique nation.

Ben Nighthorse Campbell is a Republican senator from Colorado.

One weakness of our immigration policy is that we continually give amnesty to the illegal immigrants, undermining the legal process and the intent of the law. But, generally, immigrants still contribute more than they take out. Many of them do jobs no American will do for any wage. Immigrants from Southeast Asia go into inner cities and help rejuvenate them by operating small restaurants and motels. And most of them, to my knowledge, have no problems with the law. The first thing they do when they get here is to find a job and get to work.

If my ancestors on the Indian side had the same anti-immigrant attitude that many Americans do now, those very same people who now criticize immigrants wouldn't be here themselves.

But, having said all that, I recognize you must have control of your borders. You cannot have an open-door policy for anybody and everybody. It becomes a national security and national health problem when we give up having some control.

Dr. Ruth Westheimer is the author of, ''Sex for Dummies'' (IDG Books, paperback).

When I was 10 years old, I was permitted to immigrate to Switzerland while my parents and grandmother were not. The net effect was that I survived the Holocaust and they didn't. If we in the U.S. are going to call ourselves followers of the Judeo-Christian ethic, then we have a moral obligation not to shut the doors to those who are being persecuted.

Now while I am not an economist, I also think that we benefit a lot more than we admit from a constant flow of new laborers. When I first came here, I was able to find a job as a housemaid for a dollar an hour, which saved my life. Now I employ a housekeeper who comes from the Philippines, and to me she is a lifesaver. We all benefit from the Mexican workers who pick our fruits and vegetables, and from the Korean grocers who stay open all night selling them. If we try to keep new immigrants from joining us, we will only be cutting off our collective nose to spite our selfish face.●

PRESIDENTS OF ARMENIA AND TURKEY MEET IN NEW YORK

● Mr. SIMON. Mr. President, I receive the Armenian Mirror-Spectator regularly, a weekly publication circulated primarily in the United States.

There are two items of interest in the October 28 issue. And the headings on the two items tell much of the story. One is ''Presidents of Armenia and Turkey Meet in New York,'' and the other is ''Armenia Suggests Normalization of Ties With Turkey.''

The animosities of decades and, sometimes, centuries have to be diminished in our world. One of those that hurts both Armenia and Turkey is the historic difficulties between these two peoples.

I urge both countries to continue to move along this path toward reconciliation.

And I ask that the two articles be printed in the RECORD.

The articles follow:

[From the Armenian Mirror-Spectator, Oct. 28, 1995]

PRESIDENTS OF ARMENIA AND TURKEY MEET IN NEW YORK

(By Florence Avakian)

UNITED NATIONS, NY.—On Monday, October 23, a private meeting took place between Turkish President Suleyman Demirel and Armenian President Levon Der Petrossian and their aides at the Turkish Mission to the United Nations in New York. The meeting at the Turkish UN headquarters, which is across the street from the United Nations, underscored the importance that Armenia puts on improved relations with Turkey.

Just before the Demirel-Der Petrossian meeting, the Turkish President had met privately with Azerbaijani President Geidar

Aliyev, also at the Turkish Mission to the United Nations. Following the Demirel-Aliyev meeting, the two leaders came out for a photo opportunity with the more than 60 Turkish and Azeri media representatives. This correspondent, who was the only Armenian journalist present, asked the Turkish President:

FA: Mr. Demirel, do you have plans to have a trilateral meeting with Presidents Der Petrossian and Aliyev?

SD: No, that will not happen. We are having bilateral meetings with each other. At this time, there is no need to have a summit. Armenia and Azerbaijan don't have a common ground or agreement in order to have a three-way summit.

When the President of Armenia arrived for his meeting with the Turkish leader, the Demirel-Aliyev meeting was still in progress. He waited on another floor of the Turkish Mission until the Azeri President left. Following the more than half hour meeting between the Armenian and Turkish heads of state, the two also came out for a photo op with the press.

Speaking in Armenian with an English interpreter, President Der Petrossian commented, ''We are using all the opportunities to achieve peace. During our meeting today, the issue of settlement of the Naǵorno Karabaǵh conflict was discussed as well as the issues connected with bilateral relations between Armenia and Turkey. I think that the common understanding is to allow the resumption of military activities in Naǵorno Karabaǵh.

''At the same time it is necessary for all parties to express good will and to find constructive compromise and solutions to the conflict. There are details that are to be settled and discussed during the negotiating process. And it's not only Lachin, but there are tens of issues in which the parties' opinions differ from each other. Tomorrow, the same issues will be discussed with Mr. Aliyev.''

This last statement was in reference to a private meeting between the Armenian and Azeri Presidents which was scheduled to take place on Tuesday morning, October 24, at 9:30 am, at the United Nations headquarters.

Following the two bilateral meetings, the Turkish President held a press conference with only the Turkish press, intended for public consumption in Turkey. The Turkish press representative summarized the information for this correspondent after the briefing.

Demirel had reportedly said, without elaborating, that after the dismemberment of the Soviet Union, the importance of Turkey had increased. Concerning the Caucasus, he said that it was Turkey's second foreign policy priority, after the war in the former Yuǵoslavia, and that the Karabaǵh conflict hurts not only Armenia and Azerbaijan, but also Turkey and Georǵia. His statement reportedly was that when one neighbor is hurt, all are hurt. The Caucasus conflict cannot be resolved by force, he said, and that peace will open new opportunities.

The Turkish press representative continued the Turkish President's comments which included the statement that Turkey does not have designs against its neighbors, and that Armenia and Azerbaijan will reach peace through the Minsk Group. Demirel reportedly stated that he wants ''1.4 million Azeris to return to their homes.''

In answer to a question by this correspondent three weeks ago, Former Turkish Foreign Minister, Erdal Inonu, at a press conference at the United Nations, used the figure of one million Azeri refugees. (It is interesting to note, as I reported at that time, that the International Red Cross puts the figure of refugees resulting from the Caucasus conflict at 1.1 million, 350,000 of which are Armenian refugees from Baku, Sumgait and Karabagh.)

The Turkish President also mentioned that he had cancelled his meeting with President Clinton in Washington because of the government crisis in Turkey. However, he said that President Clinton, at the Presidents' dinner at the United Nations, told him that he is supporting Turkey. To this, Demirel thanked Clinton for his support on the oil and terror issues. The United States has supported Turkey on the Kurdish question. One of the most vocal protest groups outside the United Nations were the Kurds asking for freedom and self-determination.

The Turkish crisis which brought down the Ciller government resulted in the Turkish President returning to Turkey on the evening of Monday, October 23. It was widely expected that on Tuesday, October 24, Demirel would appoint a new government, and set a new date for elections. Reportedly, he has asked Tansu Ciller to remain as Prime Minister. Reliable sources also say that Hikmet Cetin, who held the post before, will replace Erdal Inonu as the next foreign minister.

[From the Armenian Mirror-Spectator, Oct. 28, 1995]

ARMENIA SUGGESTS NORMALIZATION OF TIES WITH TURKEY

ANKARA, TURKEY.—The Armenian Parliament speaker this week called for an end to decades of mistrust and hostilities with Turkey and proposed to establish bilateral diplomatic and commercial ties.

Babken Araktsian, who is currently in Istanbul as term president of the Parliamentary Assembly of the Black Sea Economic Cooperation (PABSEC), told local reporters that Armenia was ready to tear down the wall between Turkey and Armenia which has been there for the past 70 years.

''Relations should be bilateral. They should not be influenced by third countries,'' he said.

Turkey has never established diplomatic ties with Armenia because of Armenia's repeated charges that Turks massacred 1.5 million Armenians during the First World War as well as its seven-year war with Azerbaijan over the Nagorno Karabagh enclave.

Turkey had supported Azerbaijan and cut off all air and overland border crossings to Armenia at the height of the war in 1993.

An air corridor between eastern Turkey and Yerevan, capital of Armenia, was reopened only this year.

Araktsian said Armenia was ready to open its borders to allow Turkish trucks carrying goods to transit to the Caucasus and to the Turkic republics in Central Asia.

''Big perspectives exist for the future of economic ties between the two countries,'' he added.●

INTERSTATE COMMERCE COMMISSION SUNSET ACT

The text of the bill (H.R. 2539) as passed by the Senate on November 28, 1995, is as follows:

Resolved, That the bill from the House of Representatives (H.R. 2539) entitled ''An Act to abolish the Interstate Commerce Commission, to amend subtitle IV of title 49, United States Code, to reform economic regulation of transportation, and for other purposes'', do pass with the following amendment:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Interstate Commerce Commission Sunset Act of 1995''.

SEC. 2. AMENDMENT OF TITLE 49.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 49, United States Code.

SEC. 3. TABLE OF SECTIONS.

The table of sections for this Act is as follows:

TITLE I—TERMINATION OF THE INTERSTATE COMMERCE COMMISSION AND FEDERAL MARITIME COMMISSION; REPEAL OF OBSOLETE AND UNNECESSARY PROVISIONS OF LAW

Subtitle A—Terminations

SEC. 101. AGENCY TERMINATIONS.

(a) INTERSTATE COMMERCE COMMISSION.—Upon the transfer of functions under this Act to the Intermodal Surface Transportation Board and to the Secretary of Transportation, the Interstate Commerce Commission shall terminate.

(b) FEDERAL MARITIME COMMISSION.—Effective January 1, 1997, the Federal Maritime Commission shall terminate.

SEC. 102. SAVINGS PROVISIONS.

(a) IN GENERAL.—All orders, determinations, rules, regulations, licenses, and privileges which are in effect at the time this Act takes effect, shall continue in effect according to their terms, insofar as they involve regulatory functions to be retained by this Act, until modified, terminated, superseded, set aside, or revoked in accordance with law by the Transportation Board (to the extent they involve the functions transferred to the Intermodal Surface Transportation Board under this Act) or by the Secretary (to the extent they involve functions transferred to the Secretary under this Act), or by a court of competent jurisdiction, or by operation of law.

(b) PROCEEDINGS; APPLICATIONS.—

(1) The provisions of this Act shall not affect any proceedings or any application for any license pending before the Interstate Commerce Commission at the time this Act takes effect, insofar as those functions are retained and transferred by this Act; but such proceedings and applications, to the extent that they relate to functions so transferred, shall be continued. Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this Act had not been enacted; and orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or revoked by a duly authorized official, by a court of competent jurisdiction, or by operation of law. Nothing in this subsection shall be deemed to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this Act had not been enacted.

(2) The Transportation Board and the Secretary are authorized to provide for the orderly transfer of pending proceedings from the Interstate Commerce Commission.

(c) ACTIONS IN LAW COMMENCED BEFORE ENACTMENT.—Except as provided in subsection (e)—

(1) the provisions of this Act shall not affect suits commenced prior to the date this Act takes effect, and,

(2) in all such suits, proceedings shall be had, appeals taken, and judgments rendered in the same manner and effect as if this Act had not been enacted.

(d) CONTINUANCE OF ACTIONS AGAINST OFFICERS.—No suit, action, or other proceeding commenced by or against any officer in his official capacity as an officer of the Interstate Commerce Commission shall abate by reason of the enactment of this Act. No cause of action by or against the Interstate Commerce Commission, or by or against any officer thereof in his official capacity, shall abate by reason of enactment of this Act.

(e) SUBSTITUTION OF TRANSPORTATION BOARD AS PARTY.—Any suit by or against the Interstate Commerce Commission begun before enactment of this Act shall be continued, insofar as it involves a function retained and transferred under this Act, with the Transportation Board (to the extent the suit involves functions transferred to the Transportation Board under this Act) or the Secretary (to the extent the suit involves functions transferred to the Secretary under this Act) substituted for the Commission.

SEC. 103. REFERENCES TO THE ICC IN OTHER LAWS.

(a) FUNCTIONS.—With respect to any functions transferred by this Act and exercised after the effective date of the Interstate Commerce Commission Sunset Act of 1995, reference in any other Federal law to the Interstate Commerce Commission shall be deemed to refer to—

(1) the Intermodal Surface Transportation Board, insofar as it involves functions transferred to the Transportation Board by this Act; and

(2) the Secretary of Transportation, insofar as it involves functions transferred to the Secretary by this Act.

(b) OTHER REFERENCES.—Any other reference in any law, regulation, official publication, or other document to the Interstate Commerce Commission as an agency of the United States Government shall be treated as a reference to the Transportation Board.

SEC. 104. TRANSFER OF FUNCTIONS.

(a) TO TRANSPORTATION BOARD.—Except as otherwise provided in this Act and the amendments made by this Act, those personnel, property, and records employed, used, held, available, or to be made available in connection with a function transferred to the Transportation Board by this Act shall be transferred to the

Transportation Board for use in connection with the functions transferred, and unexpended balances of appropriations, allocations, and other funds of the Interstate Commerce Commission shall also be transferred to the Transportation Board.

(b) TO SECRETARY.—Except as otherwise provided in this Act and the amendments made by this Act, those personnel, property, and records employed, used, held, available, or to be made available in connection with a function transferred to the Secretary by this Act shall be transferred to the Secretary for use in connection with the functions transferred.

(c) SEPARATED EMPLOYEES.—Notwithstanding all other laws and regulations, the Department of Transportation shall place all Interstate Commerce Commission employees separated from the Commission as a result of this Act on the DOT reemployment priority list (competitive service) or the priority employment list (excepted service).

SEC. 105. REFERENCES TO THE FMC IN OTHER LAWS.

Effective January 1, 1997, reference in any other Federal law to the Federal Maritime Commission shall be deemed to refer to the Transportation Board.

Subtitle B—Repeal of Obsolete, Etc., Provisions

SEC. 121. REPEAL OF PROVISIONS.

The following provisions are repealed:

(1) Section 10101 (relating to transportation policy) and the item relating thereto in the table of sections of chapter 101 are repealed.

(2) Section 10322 (relating to Commission action and appellate procedure in nonrail proceedings) and the item relating thereto in the table of sections of chapter 103 are repealed.

(3) Section 10326 (relating to limitations in rulemaking proceedings related to rail carriers) and the item relating thereto in the table of sections of chapter 103 are repealed.

(4) Section 10327 (relating to Commission action and appellate procedure in rail carrier proceedings) and the item relating thereto in the table of sections of chapter 103 are repealed.

(5) Section 10328 (relating to intervention) and the item relating thereto in the table of sections of chapter 103 are repealed.

(6) Subchapter III of chapter 103 (relating to joint boards) and the items relating thereto in the table of sections of such chapter are repealed.

(7)(A) Subchapter IV of chapter 103 (relating to Rail Services Planning Office) and the items relating thereto in the table of sections of such chapter are repealed.

(B) Section 24505(b) of title 49, United States Code, is amended to read as follows:

''(b) OFFER REQUIREMENTS.—A commuter authority making an offer under subsection (a)(2) of this section shall show that it has obtained access to all rail property necessary to provide the additional commuter rail passenger transportation.''.

(8) Subchapter V of chapter 103 (relating to Office of Rail Public Counsel) and the items relating thereto in the table of sections of such chapter are repealed.

(9) Section 10502 (relating to express carrier transportation) and the item relating thereto in the table of sections of chapter 105 are repealed.

(10) Section 10504 (relating to exempt rail mass transportation) and the item relating thereto in the table of sections of such chapter are repealed.

(11) Subchapter II, III, and IV of chapter 105 (relating to freight forwarder service) and the items relating thereto in the table of sections of such chapter are repealed.

(12) Section 10705a (relating to joint rate surcharges and cancellations) and the item relating thereto in the table of sections of chapter 107 are repealed.

(13) Section 10710 (relating to elimination of discrimination against recyclable materials) and the item relating thereto in the table of sections of chapter 107 are repealed.

(14) Section 10711 (relating to effect of certain sections on rail rates and practices) and the item relating thereto in the table of sections of chapter 107 are repealed.

(15) Section 10712 (relating to inflation-based rate increases) and the item relating thereto in the table of sections of chapter 107 are repealed.

(16) Subchapter II (relating to special circumstances) of chapter 107 (except for sections 10721 and 10730) and the items relating thereto in the table of sections of chapter 107 (except for the subchapter caption and the items relating to sections 10721 and 10730) are repealed.

(17) Section 10743 (relating to payment of rates) and the item relating thereto in the table of sections of chapter 107 are repealed.

(18) Section 10746 (relating to transportation of commodities manufactured or produced by a rail carrier) and the item relating thereto in the table of sections of chapter 107 are repealed.

(19) Section 10748 (relating to transportation of livestock by rail carrier) and the item relating thereto in the table of sections of chapter 107 are repealed.

(20) Section 10749 (relating to exchange of services and limitation on use of common carriers by household goods freight forwarders) and the item relating thereto in the table of sections of chapter 107 are repealed.

(21) Section 10751 (relating to business entertainment expenses) and the item relating thereto in the table of sections of chapter 107 are repealed.

(22) Section 10764 (relating to arrangements between carriers) and the item relating thereto in the table of sections of chapter 107 are repealed.

(23) Section 10765 (relating to water transportation under arrangements with certain other carriers) and the item relating thereto in the table of sections of chapter 107 are repealed.

(24) Section 10766 (relating to freight forwarder traffic agreements) and the item relating thereto in the table of sections of chapter 107 are repealed.

(25) Section 10767 (relating to billing and collecting practices) and the item relating thereto in the table of sections of chapter 107 are repealed.

(26) Subchapter V of chapter 107 (relating to valuation of property) and the items relating thereto in the table of sections of chapter 107 are repealed.

(27)(A) Section 10908 (relating to discontinuing or changing interstate train or ferry transportation) and the item relating thereto in the table of sections of chapter 109 are repealed.

(B) Subsection (d) of section 24705 of title 49, United States Code, is repealed.

(28) Section 10909 (relating to discontinuing or changing train or ferry transportation in one State) and the item relating thereto in the table of sections of chapter 109 are repealed.

(29) Subchapter II (relating to other carriers and motor carrier brokers) of chapter 109 and the items relating thereto in the table of sections of chapter 109 are repealed.

(30) Section 11102 (relating to classification of carriers) and the item relating thereto in the table of sections of chapter 111 are repealed.

(31) Section 11105 (relating to protective services) and the item relating thereto in the table of sections of chapter 111 are repealed.

(32) Section 11106 (relating to identification of motor vehicles) and the item relating thereto in the table of sections of chapter 111 are repealed.

(33) Section 11107 (relating to leased motor vehicles) and the item relating thereto in the table of sections of chapter 111 are repealed.

(34) Section 11108 (relating to water carriers subject to unreasonable discrimination in foreign transportation) and the item relating thereto in the table of sections of chapter 111 are repealed.

(35) Section 11109 (relating to loading and unloading motor vehicles) and the item relating thereto in the table of sections of chapter 111 are repealed.

(36) Section 11110 (relating to household goods carrier operations) and the item relating thereto in the table of sections of chapter 111 are repealed.

(37) Section 11111 (relating to use of citizen band radios on buses) and the item relating thereto in the table of sections of chapter 111 are repealed.

(38) Section 11126 (distribution of coal cars) and the item relating thereto in the table of sections of chapter 111 are repealed.

(39) Section 11127 (relating to service of household freight forwarders) and the item relating thereto in the table of sections of chapter 111 are repealed.

(40) Section 11142 (relating to uniform accounting system for motor carriers) and the item relating thereto in the table of sections of chapter 111 are repealed.

(41) Section 11161 (relating to railroad accounting principles board) and the item relating thereto in the table of sections of chapter 111 are repealed.

(42) Section 11162 (relating to cost accounting principles) and the item relating thereto in the table of sections of chapter 111 are repealed.

(43) Section 11163 (relating to implementation of cost accounting principles) and the item relating thereto in the table of sections of chapter 111 are repealed.

(44) Section 11164 (relating to certification of rail carrier cost accounting systems) and the item relating thereto in the table of sections of chapter 111 are repealed.

(45) Section 11167 (relating to report) and the item relating thereto in the table of sections of chapter 111 are repealed.

(46) Section 11168 (relating to authorization of appropriations) and the item relating thereto in the table of sections of chapter 111 are repealed.

(47) Section 11304 (relating to security interest in certain motor vehicles) and the item relating thereto in the table of sections of chapter 113 are repealed.

(48) Section 11321 (relating to limitation on ownership of certain water carriers) and the item relating thereto in the table of sections for chapter 113 are repealed.

(49) Section 11323 (relating to limitation on ownership of other carriers by household goods freight forwarders) and the item relating thereto in the table of sections for chapter 113 are repealed.

(50) Section 11345a (relating to motor carrier procedures for consolidation, merger, and acquisition of control) and the item relating thereto in the table of sections of chapter 113 are repealed.

(51) Section 11346 (relating to expedited rail carrier procedures for consolidation, merger, and acquisition of control) and the item relating thereto in the table of sections of chapter 113 are repealed.

(52) Section 11349 (relating to temporary operating approval for transactions involving motor and water carriers) and the item relating thereto in the table of sections of chapter 113 are repealed.

(53) Section 11350 (relating to responsibility of the Secretary of Transportation in certain transactions) and the item relating thereto in the table of sections of chapter 113 are repealed.

(54) Subchapter IV of chapter 113 (relating to financial structure) and the items relating thereto in the table of sections of chapter 113 are repealed.

(55) Section 11502 (relating to conferences and joint hearings with State authorities) and the item relating thereto in the table of sections of chapter 115 are repealed.

(56) Section 11503a (tax discrimination against motor carrier transportation property) and the item relating thereto in the table of sections of chapter 115 are repealed.

(57) Section 11505 (relating to State action to enjoin carriers from certain actions) and the

item relating thereto in the table of sections of chapter 115 are repealed.

(58) Section 11506 (relating to registration of motor carriers by a State) and the item relating thereto in the table of sections of chapter 115 are repealed.

(59) Section 11507 (relating to prison-made property governed by State law) and the item relating thereto in the table of sections of chapter 115 are repealed.

(60) Section 11704 (relating to action by a private person to enjoin abandonment of service) and the item relating thereto in the table of sections of chapter 117 are repealed.

(61) Section 11708 (relating to private enforcement) and the item relating thereto in the table of sections of chapter 117 are repealed.

(62) Section 11709 (relating to liability for issuance of securities by certain carriers) and the item relating thereto in the table of sections of chapter 117 are repealed.

(63) Section 11711 (relating to dispute settlement program for household goods carriers) and the item relating thereto in the table of sections of chapter 117 are repealed.

(64) Section 11712 (relating to tariff reconciliation rules for motor common carriers of property) and the item relating thereto in the table of sections of chapter 117 are repealed.

(65) Section 11902a (relating to penalties for violations of rules relating to loading and unloading motor vehicles) and the item relating thereto in the table of sections of chapter 119 are repealed.

(66) Section 11905 (relating to transportation of passengers without charge) and the item relating thereto in the table of sections of chapter 119 are repealed.

(67) Section 11906 (relating to evasion of regulation of motor carriers and brokers) and the item relating thereto in the table of sections of chapter 119 are repealed.

(68) Section 11908 (relating to abandonment of service by household goods freight forwarders) and the item relating thereto in the table of sections of chapter 119 are repealed.

(69) Section 11911 (relating to issuance of securities, etc.) and the item relating thereto in the table of sections of chapter 119 are repealed.

(70) Section 11913a (relating to accounting principles violations) and the item relating thereto in the table of sections of chapter 119 are repealed.

(71) Section 11917 (relating to weight-bumping in household goods transportation) and the item relating thereto in the table of sections of chapter 119 are repealed.

SEC. 122. COVERAGE OF CERTAIN ENTITIES UNDER OTHER, UNRELATED ACTS NOT AFFECTED.

Notwithstanding any provision of this Act, an entity that is, or is treated as, an employer under the Railroad Retirement Act, the Railroad Unemployment Insurance Act, or the Railroad Retirement Tax Act under subtitle IV of title 49, United States Code, as in effect on the day before the date of enactment of this Act, shall continue to be covered as employers under those Acts.

TITLE II—INTERMODAL SURFACE TRANSPORTATION BOARD

Subtitle A—Organization

SEC. 201. AMENDMENT TO SUBCHAPTER I.

(a) AMENDMENT.—Subchapter I of chapter 103 is amended to read as follows:

''SUBCHAPTER I—ESTABLISHMENT

''§ 10301. Establishment of Transportation Board

''(a) ESTABLISHMENT.—There is hereby established within the Department of Transportation the Intermodal Surface Transportation Board.

''(b) MEMBERSHIP.—(1) Members of the Transportation Board shall be appointed by the President, by and with the advice and consent of the Senate. The Transportation Board shall consist of 3 members until January 1, 1997, not more than 2 of whom shall be members of the same political party. Beginning on January 1, 1997, the Transportation Board shall consist of 5 members, no more than 3 of whom shall be members of the same political party.

''(2) At any given time, at least 2 members of the Transportation Board shall be individuals with professional standing and demonstrated knowledge in the fields of rail or motor transportation or transportation regulation or agriculture, and at least 1 member shall be an individual with professional or business experience in the private sector. Effective January 1, 1997, at least 2 members shall be individuals with professional standing and demonstrated knowledge in the fields of maritime transportation or its regulation.

''(3) The term of each member of the Transportation Board shall be 5 years and shall begin when the term of the predecessor of that member ends. An individual appointed to fill a vacancy occurring before the expiration of the term for which the predecessor of that individual was appointed, shall be appointed for the remainder of that term. When the term of office of a member ends, the member may continue to serve until a successor is appointed and qualified, but for a period not to exceed 1 year. The President may remove a member for neglect of duty or malfeasance in office.

''(4)(A) On the effective date of this section, the members of the Interstate Commerce Commission shall become members of the Transportation Board, to serve for a period of time equal to the remainder of the term for which they were originally appointed to the Interstate Commerce Commission.

''(B) Effective January 1, 1997, two Federal Maritime Commission commissioners shall become members of the Board to serve terms expiring December 31, 1997, and December 31, 2000. The two members shall be selected in order of the expiration date of their Commission term, beginning with the term having the latest expiration date; provided, however, that the two members added under this subsection may not be from the same political party. The longer Board term shall be filled by the member having the later Federal Maritime Commission term expiration date. Effective January 1, 1997, the rights of any Federal Maritime Commission commissioner other than those designated under this paragraph to remain in office is terminated.

''(5) No individual may serve as a member of the Transportation Board for more than 2 terms. In the case of an individual appointed to fill a vacancy occurring before the expiration of the term for which the predecessor of that individual was appointed, such individual may not be appointed for more than 1 additional term.

''(6) A member of the Transportation Board may not have a pecuniary interest in, hold an official relation to, or own stock in or bonds of, a carrier providing transportation by any mode and may not engage in another business, vocation, or employment.

''(7) A vacancy in the membership of the Transportation Board does not impair the right of the remaining members to exercise all of the powers of the Transportation Board. The Transportation Board may designate a member to act as Chairman during any period in which there is no Chairman designated by the President.

''(c) CHAIRMAN.—(1) There shall be at the head of the Transportation Board a Chairman, who shall be designated by the President from among the members of the Transportation Board. The Transportation Board shall be administered under the supervision and direction of the Chairman. The Chairman shall receive compensation at the rate prescribed for level III of the Executive Schedule under section 5314 of title 5.

''(2) Subject to the general policies, decisions, findings, and determinations of the Transportation Board the Chairman shall be responsible for administering the Transportation Board. The Chairman may delegate the powers granted under this paragraph to an officer, employee, or office of the Transportation Board. The Chairman shall—

''(A) appoint and supervise, other than regular and full time employees in the immediate offices of another member, the officers and employees of the Transportation Board, including attorneys to provide legal aid and service to the Transportation Board and its members, and to represent the Transportation Board in any case in court;

''(B) appoint the heads of major offices with the approval of the Transportation Board;

''(C) distribute Transportation Board business among officers and employees and offices of the Transportation Board;

''(D) prepare requests for appropriations for the Transportation Board and submit those requests to the President and Congress with the prior approval of the Transportation Board; and

''(E) supervise the expenditure of funds allocated by the Transportation Board for major programs and purposes.

''§ 10302. Functions

''(a) INTERSTATE COMMERCE COMMISSION FUNCTIONS.—Except as otherwise provided in the Interstate Commerce Commission Sunset Act of 1995, or the amendments made thereby, the Transportation Board shall perform all functions that, immediately before the effective date of such Act, were functions of the Interstate Commerce Commission or were performed by any officer or employee of the Interstate Commerce Commission in the capacity as such officer or employee.

''(b) FEDERAL MARITIME COMMISSION FUNCTIONS.—On January 1, 1997, the Transportation Board shall perform all functions that, on that date, were functions of the Federal Maritime Commission or were performed by any officer or employee of the Federal Maritime Commission in the capacity as such officer or employee.

''§ 10303. Administrative provisions

''(a) EXECUTIVE REORGANIZATION.—For purposes of chapter 9 of title 5, United States Code, the Transportation Board shall be deemed to be an independent regulatory agency and an establishment of the United States Government.

''(b) OPEN MEETINGS.—For purposes of section 552b of title 5, United States Code, the Transportation Board shall be deemed to be an agency.

''(c) INDEPENDENCE.—In the performance of their functions, the members, employees, and other personnel of the Transportation Board shall not be responsible to or subject to the supervision or direction of any officer, employee, or agent of any other part of the Department of Transportation.

''(d) REPRESENTATION BY ATTORNEYS.—Attorneys designated by the Chairman of the Transportation Board may appear for, and represent the Transportation Board in, any civil action brought in connection with any function carried out by the Transportation Board pursuant to this subtitle or as otherwise authorized by law.

''(e) ADMISSION TO PRACTICE.—Subject to section 500 of title 5, the Transportation Board may regulate the admission of individuals to practice before it and may impose a reasonable admission fee.

''(f) BUDGET REQUESTS.—In each annual request for appropriations by the President, the Secretary of Transportation shall identify the portion thereof intended for the support of the Transportation Board and include a statement by the Transportation Board—

''(1) showing the amount requested by the Transportation Board in its budgetary presentation to the Secretary and the Office of Management and Budget; and

''(2) an assessment of the budgetary needs of the Transportation Board.

''(g) DIRECT TRANSMITTAL TO CONGRESS.—The Transportation Board shall transmit to Congress copies of budget estimates, requests, and information (including personnel needs), legislative recommendations, prepared testimony for

congressional hearings, and comments on legislation at the same time they are sent to the Secretary of Transportation. An officer of an agency may not impose conditions on or impair communications by the Transportation Board with Congress, or a committee or member of Congress, about the information.

''§ 10304. Annual report

''The Transportation Board shall annually transmit to the Congress a report on its activities.''.

(b) CONFORMING AMENDMENT.—The items relating to subchapter I of chapter 103 in the table of sections of such chapter are amended to read as follows:

''SUBCHAPTER I—ESTABLISHMENT

''Sec.
''10301. Establishment of Transportation Board.
''10302. Functions.
''10303. Administrative provisions.
''10304. Annual report.''.

SEC. 202. ADMINISTRATIVE SUPPORT.

The Secretary of Transportation shall provide administrative support for the Transportation Board.

SEC. 203. REORGANIZATION.

The Chairman of the Transportation Board may allocate or reallocate any function of the Transportation Board, consistent with this title and subchapter I of chapter 103, as amended by section 201 of this title, among the members or employees of the Transportation Board, and may establish, consolidate, alter, or discontinue in the Transportation Board any organizational entities that were entities of the Interstate Commerce Commission or the Federal Maritime Commission, as the Chairman considers necessary or appropriate.

SEC. 204. TRANSITION PLAN FOR FEDERAL MARITIME COMMISSION FUNCTIONS.

The Chairman of the Intermodal Surface Transportation Board and the Chairman of the Federal Maritime Commission shall meet within 90 days of enactment of this Act to develop a plan for the orderly transition of the functions of the Federal Maritime Commission to the Transportation Board, including appropriate funding levels for the operations associated with the functions of the Federal Maritime Commission transferred to the Transportation Board, and shall submit such a plan to the Director of the Office of Management and Budget and to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure not later than 6 months after the enactment of this Act.

Subtitle B—Administrative

SEC. 211. POWERS.

Section 10321 is amended—

(1) by striking ''Interstate Commerce Commission'' in subsection (a) and inserting in lieu thereof ''Transportation Board'';

(2) striking subsection (b) and inserting the following:

''(b) The Transportation Board may obtain from carriers providing transportation and service subject to this part, and from persons controlling, controlled by, or under common control with those carriers to the extent that the business of that person is related to the management of the business of those carriers, information the Transportation Board decides is necessary to carry out this part.'';

(3) in subsection (c)(1), by striking ''Commission, an individual Commissioner, an employee board, and an employee delegated to act under section 10305 of this title'' and inserting in lieu thereof ''Transportation Board'';

(4) by striking paragraph (2) of subsection (c);

(5) by redesignating paragraph (3) of subsection (c) as paragraph (2); and

(6) by striking ''Commission'' each place it appears and inserting in lieu thereof ''Transportation Board''.

SEC. 212. COMMISSION ACTION.

(a) AMENDMENTS.—Section 10324 is amended—

(1) in the section heading, by striking ''**Commission**'' and inserting in lieu thereof ''**Transportation Board**'';

(2) by striking ''Interstate Commerce Commission'' in subsection (a) and inserting in lieu thereof ''Transportation Board'';

(3) by striking ''Commission'' each place it appears in subsection (b) and inserting in lieu thereof ''Transportation Board'';

(4) by striking subsection (c); and

(5) by adding at the end the following new subsections:

''(c) The Transportation Board may, at any time on its own initiative because of material error, new evidence, or substantially changed circumstances—

''(1) reopen a proceeding;

''(2) grant rehearing, reargument, or reconsideration of an action of the Transportation Board; or

''(3) change an action of the Transportation Board.

An interested party may petition to reopen and reconsider an action of the Transportation Board under this subsection under regulations of the Transportation Board.

''(d) Notwithstanding this subtitle, an action of the Transportation Board under this section is final on the date on which it is served, and a civil action to enforce, enjoin, suspend, or set aside the action may be filed after that date.''.

(b) CONFORMING AMENDMENT.—The item relating to section 10324 in the table of sections of chapter 103 is amended by striking ''Commission'' and inserting in lieu thereof ''Transportation Board''.

SEC. 213. SERVICE OF NOTICE IN COMMISSION PROCEEDINGS.

(a) AMENDMENTS.—Section 10329 is amended—

(1) by striking ''**Commission**'' in the section heading;

(2) by striking ''Interstate Commerce Commission'' in subsection (a) and inserting in lieu thereof ''Transportation Board'';

(3) striking ''(1)'' in subsection (a) and by striking paragraph (2) of subsection (a);

(4) striking ''subchapter I of'' in subsection (a);

(5) striking the second sentence in subsection (b);

(6) striking ''(1) in subsection (c) and by striking paragraphs (2) and (3);

(7) striking ''notices of the Commission shall be served as follows: (1) A'' in subsection (c) and inserting ''a'';

(8) by striking '', express, sleeping car,'' in subsection (c)(1);

(9) by striking ''Secretary of the'' in subsection (c);

(10) in subsection (d)—

(A) by striking '', express, sleeping car,''; and

(B) by striking ''who filed the tariff'';

(11) by striking subsection (e); and

(12) by striking ''Commission'' each place it appears and inserting in lieu thereof ''Transportation Board''.

(b) CONFORMING AMENDMENT.—The item relating to section 10329 in the table of sections of chapter 103 is amended by striking ''Commission''.

SEC. 214. SERVICE OF PROCESS IN COURT PROCEEDINGS.

Section 10330 is amended—

(1) by striking ''Interstate Commerce Commission'' in subsection (a) and inserting in lieu thereof ''Transportation Board'';

(2) by striking ''subchapter I of'' in the first sentence of subsection (a);

(3) by striking ''Secretary of the Commission'' in subsection (a) and inserting in lieu thereof ''Transportation Board'';

(4) by striking subsection (b); and

(5) by redesignating subsection (c) as subsection (b).

SEC. 215. STUDY ON THE AUTHORITY TO COLLECT CHARGES.

In addition to other user fees that the Transportation Board may impose, the Transportation Board shall complete, within 6 months after the date of enactment of this Act, a study on the authority necessary to assess and collect fees and annual charges in any fiscal year in amounts equal to all of the costs incurred by the Transportation Board in that fiscal year.

SEC. 216. FEDERAL HIGHWAY ADMINISTRATION RULEMAKING.

(a) ADVANCE NOTICE.—The Federal Highway Administration shall issue an advance notice of proposed rulemaking dealing with a variety of fatigue-related issues (including 8 hours of continuous sleep after 10 hours of driving, loading and unloading operations, automated and tamper-proof recording devices, rest and recovery cycles, fatigue and stress in longer combination vehicles, fitness for duty, and other appropriate regulatory and enforcement countermeasures for reducing fatigue-related incidents and increasing driver alertness) not later than March 1, 1996.

(b) RULEMAKING.—The Federal Highway Administration shall issue a notice of proposed rulemaking dealing with such issues within one year after the advance notice described in subsection (a) is published, and shall issue a final rule dealing with those issues within 2 years after that date.

SEC. 217. TRANSPORT VEHICLES FOR OFF-ROAD, COMPETITION VEHICLES.

Section 31111(b)(1) is amended—

(1) by striking ''or'' at the end of subparagraph (C);

(2) by striking the period at the end of subparagraph (D) and inserting a semicolon and ''or''; and

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

''(E) imposes a limitation of less than 46 feet on the distance from the kingpin to the center of the rear axle on trailers used exclusively or primarily in connection with motorsports competition events.''.

SEC. 218. DESTRUCTION OF MOTOR VEHICLES OR MOTOR VEHICLE FACILITIES; WRECKING TRAINS.

(a) DESTRUCTION OF MOTOR VEHICLES OR MOTOR VEHICLE FACILITIES.—Section 33 of title 18, United States Code, is amended by adding at the end the following new undesignated paragraph:

''Whoever is convicted of a crime under this section involving a motor vehicle that, at the time the crime occurred, carried high-level radioactive waste (as that term is defined in section 2(12) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101(12)), or spent nuclear fuel (as that term is defined in section 2(23) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101(23)), shall be imprisoned for not less than 30 years.''.

(b) WRECKING TRAINS.—Section 1992 of title 18, United States Code, is amended—

(1) by inserting after the fourth undesignated paragraph the following:

''Whoever is convicted of any such crime that involved a train that, at the time the crime occurred, carried high-level radioactive waste (as that term is defined in section 2(12) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101(12)), or spent nuclear fuel (as that term is defined in section 2(23) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101(23)), shall be imprisoned for not less than 30 years.''.

TITLE III—RAIL AND PIPELINE TRANSPORTATION

SEC. 301. GENERAL CHANGES IN REFERENCES TO COMMISSION, ETC.

Subtitle IV is amended—

(1) by striking ''Interstate Commerce Commission'' each place it appears (including chapter and section headings) and inserting ''Intermodal Surface Transportation Board'';

(2) by striking ''Commission'' each place it appears in reference to the Interstate Commerce Commission (including chapter and section headings) and inserting ''Transportation Board'';

(3) by striking ''Commissioner'' each place it appears in reference to a member of the Interstate Commerce Commission (including chapter and section headings) and inserting ''Transportation Board member'';

(4) by striking ''Commissioners'' each place it appears in reference to members of the Interstate Commerce Commission (including chapter and section headings) and inserting ''Transportation Board members'';

(5) by striking ''this subtitle'' each place it appears and inserting ''this part'';

(6) by inserting ''PART A—RAIL AND PIPELINE CARRIERS'' after ''SUBTITLE IV—INTERSTATE COMMERCE'';

(7) by inserting before section 10101 the following:

''PART B—MOTOR CARRIERS, WATER CARRIERS, BROKERS, AND FREIGHT FORWARDERS

''PART A—RAIL AND PIPELINE CARRIERS''.

SEC. 302. RAIL TRANSPORTATION POLICY.

Section 10101a is amended by—

(1) striking ''and'' after the semicolon in paragraph (14);

(2) striking the period at the end of paragraph (15) and inserting a semicolon and ''and''; and

(3) adding at the end the following:

''(16) to provide for the expeditious handling and resolution of all proceedings required or permitted to be brought under the provisions of this subtitle.''.

SEC. 303. DEFINITIONS.

Section 10102 is amended by—

(1) striking paragraphs (1), (2), (5), (6) (8) through (18), (19), (25), (27), and (30) through (33);

(2) redesignating the remaining paragraphs as paragraphs (1) through (11), respectively;

(3) striking paragraph (2) (as redesignated) and inserting:

''(2) 'common carrier' means a pipeline carrier and a rail carrier;'';

(4) inserting ''common carrier'' after ''railroad'' in paragraph (6) (as redesignated);

(5) striking '', fare,'' in paragraph (8) (as redesignated);

(6) striking ''of passengers or property, or both,'' in paragraph (10)(A) (as redesignated) and inserting ''of property,''; and

(7) striking ''passengers and'' in paragraph (10)(B) (as redesignated).

SEC. 304. GENERAL JURISDICTION.

Section 10501 is amended by—

(1) striking ''Subject to this chapter and other law, the'' in subsection (a), and inserting ''The'';

(2) inserting ''of property'' after ''transportation'' in subsection (a);

(3) striking ''express carrier, sleeping car carrier,'' in subsection (a)(1);

(4) striking ''passengers or'' in subsection (b)(1);

(5) by striking ''or'' at the end of subsection (b)(1);

(6) by striking the period at the end of subsection (b)(2) and inserting a semicolon and ''or'';

(7) by adding at the end of subsection (b) the following:

''(3) transportation by a commuter authority, as defined in section 24102 of this title, except for sections 11103, 11104, and 11503.'';

(8) striking ''subchapter'' in subsection (c) and inserting ''chapter'' and by striking ''(1) the transportation is deemed to be subject to the jurisdiction of the Commission pursuant to section 11501(b)(4)(B) of this title, or (2)'' in subsection (c); and

(9) striking ''(b)'' after ''section 11501'' in subsection (d).

SEC. 305. RAILROAD AND WATER TRANSPORTATION CONNECTIONS AND RATES.

Section 10503 is amended by—

(1) striking ''passengers or'' each place it appears in subsection (a)(2); and

(2) striking ''passengers,'' in subsection (a)(2)(B).

SEC. 306. AUTHORITY TO EXEMPT RAIL CARRIER AND MOTOR CARRIER TRANSPORTATION.

Section 10505 is amended by—

(1) striking ''rail carrier and motor carrier'' from the section heading;

(2) striking subsection (a) and inserting the following:

''(a) In a matter subject to the jurisdiction of the Intermodal Surface Transportation Board under this chapter, the Transportation Board shall exempt a person, class of persons, or a transaction or service from the application of a provision of this title in whole or in part within 180 days after the filing of an application for an exemption, when the Transportation Board finds that the application of that provision in whole or in part—

''(1) is not necessary to carry out the transportation policy of section 10101 or section 10101a of this title; and

''(2) either (A) the transaction or service is of limited scope, or (B) the application of a provision of this title is not needed to protect shippers from the abuse of market power.'';

(3) striking subsection (d) and inserting the following:

''(d) The Transportation Board shall revoke an exemption in whole or in part, to the extent that application of a provision of this title to the person, class, or transportation is necessary to carry out the transportation policy of section 10101a of this title. The Transportation Board shall conclude a proceeding under this subsection within 180 days. In acting upon a request for revocation, the Transportation Board shall consider the availability of other economic transportation alternatives, in addition to any other competitive factors it deems relevant. If a request for revocation under this subsection is accompanied by a complaint seeking monetary damages for a violation of a provision of this title by a railroad, and the Transportation Board does not render a final decision on such request within 180 days after the filing of the revocation request and complaint, then any monetary damages which the Transportation Board may award at the conclusion of the proceeding shall be calculated from no later than the 181st day following the filing of the revocation request and complaint if the Transportation Board finds that such failure to render a final decision within 180 days is due in substantial part to dilatory practices of the railroad.'';

(4) striking subsection (f) and inserting the following:

''(f) The Transportation Board may exercise its authority under this section to exempt transportation that is provided by a carrier as a part of a continuous intermodal movement.''; and

(5) striking subsection (g) and inserting the following:

''(g) The Transportation Board may not exercise its authority under this section to relieve a carrier of its obligation to protect the interests of employees as required by this part.''.

SEC. 307. STANDARDS FOR RATES, CLASSIFICATIONS, ETC.

Section 10701 is amended by—

(1) redesignating subsection (c) as subsection (b);

(2) striking ''subchapter I or III of chapter 105'' in subsection (b) as so redesignated and inserting ''chapter 105'';

(3) striking ''the jurisdiction of the Commission under either of those subchapters'' in subsection (b) as so redesignated and inserting ''jurisdiction either under chapter 105 of this part or under part B of this subtitle''; and

(4) striking subsections (d) through (f).

SEC. 308. STANDARDS FOR RATES FOR RAIL CARRIERS.

Section 10701a is amended by—

(1) striking ''subchapter I of'' in subsection (a);

(2) striking ''lesser of the percentages described in clauses (i) and (ii) of section 10707a(e)(2)(A) of this title'' in subparagraphs (2)(A)(i) and (2)(B)(i) of subsection (b), and inserting ''percentage described in section 10707a(d)(1)''; and

(3) adding at the end of subsection (b) the following:

''(4)(A) Within 1 year after the date of enactment of the Interstate Commerce Commission Sunset Act of 1995, the Transportation Board shall complete the Interstate Commerce Commission non-coal rate guidelines proceeding pending on the date of enactment of the Interstate Commerce Commission Sunset Act of 1995 to establish a simplified and expedited method for determining the reasonableness of challenged rail rates in those cases in which a full stand-alone cost presentation is too costly given the value of the case.

''(B) Within 6 months after that date of enactment, the Transportation Board shall establish procedures to ensure expeditious handling of challenges to the reasonableness of railroad rates. The procedures shall include appropriate measures for avoiding delay in the discovery and evidentiary phases of such proceedings and for ensuring prompt disposition of motions and interlocutory administrative appeals.

''(C) In a proceeding to challenge the reasonableness of a railroad rate, other than a proceeding arising under section 10707 of this title, the Transportation Board shall make its determination as to the reasonableness of the challenged rate—

''(i) within 6 months after the close of the administrative record if the determination is based upon a stand-alone cost presentation, or

''(ii) within 3 months after the close of the administrative record if the determination is based upon the methodology adopted by the Board pursuant to paragraph (4)(A).''.

SEC. 309. AUTHORITY FOR CARRIERS TO ESTABLISH RATES, CLASSIFICATIONS, ETC.

Section 10702 is amended by—

(1) beginning with ''service,'' in paragraph (2) of subsection (a) striking all that follows and inserting ''service.''; and

(2) striking subsections (b) and (c).

SEC. 310. AUTHORITY FOR CARRIERS TO ESTABLISH THROUGH ROUTES.

Section 10703 is amended by—

(1) striking '', express, sleeping car,'' in paragraph (1) of subsection (a);

(2) striking paragraphs (3) and (4) of subsection (a); and

(3) replacing ''Commission under subchapter I, II (insofar as motor carriers of property are concerned), or III of'' in subsection (b) with ''Transportation Board under''.

SEC. 311. AUTHORITY AND CRITERIA FOR PRESCRIBED RATES, CLASSIFICATIONS, ETC.

Section 10704 is amended by—

(1) striking ''subchapter I of'' and ''(including a maximum or minimum rate, or both)'' in the first sentence of subsection (a)(1);

(2) striking ''subchapter'' in the first sentence of subsection (a)(2) and inserting ''chapter'';

(3) striking the third sentence of subsection (a)(2);

(4) striking paragraph (3) of subsection (a) and redesignating paragraph (4) as (3);

(5) striking ''within 180 days after the effective date of the Staggers Rail Act of 1980 and'' and ''thereafter'' in subsection (a)(3), as redesignated;

(6) striking subsections (b), (c), (d) and (e);

(7) redesignating subsection (f) as subsection (b);

(8) striking ''on its own initiative or'' in subsection (b) as redesignated; and

(9) striking the last sentence of subsection (b), as redesignated.

SEC. 312. AUTHORITY FOR PRESCRIBED THROUGH ROUTES, JOINT CLASSIFICATIONS, ETC.

Section 10705 is amended by—

(1) striking ''subchapter I, II (except a motor common carrier of property), or III of'', and ''(including maximum or minimum rates or both)'' in paragraph (1) of subsection (a);

(2) striking paragraph (3) of subsection (a);

(3) striking subsections (b) and (h) and redesignating subsections (c) through (g) as subsections (b) through (f);

(4) striking ''or (b)'' and '', water carrier, or motor common carrier of property'' in subsection (b), as redesignated;

(5) striking ''tariff'' in subsection (d), as redesignated, and inserting ''proposed rate change'';

(6) striking '', water common carrier, or motor common carrier of property'' in subsection (d), as redesignated;

(7) striking ''or (b)'' and ''on its own initiative or'' in the first sentence of subsection (e)(1) as redesignated;

(8) striking ''if the proceeding is brought on complaint or within 18 months after the commencement of a proceeding on the initiative of the Commission'' in the second sentence of subsection (e)(1), as redesignated; and

(9) striking ''subsection (f)'' in subsection (f), as redesignated, and inserting ''subsection (e)''.

SEC. 313. ANTITRUST EXEMPTION FOR RATE AGREEMENTS.

Section 10706 is amended by—

(1) striking subsection (a)(3)(B);

(2) redesignating paragraphs (3)(C) and (D) of subsection (a) as paragraphs (3)(B) and (C);

(3) striking ''consider'' in subsection (a)(3)(B)(ii)(II), as redesignated, and inserting ''considered'';

(4) striking ''subchapter I of'' in subsection (a)(5)(A);

(5) striking ''the effective date of the Staggers Rail Act of 1980'' in subsection (a)(5)(C), and inserting ''October 1, 1980,'';

(6) striking subsections (b), (c), and (d) and redesignating subsections (e) through (g) as subsections (b) through (d);

(7) striking the first sentence of subsection (c), as redesignated, and inserting ''The Transportation Board may review an agreement approved under subsection (a) of this section and shall change the conditions of approval or terminate it when necessary to comply with the public interest.'';

(8) striking ''subsection (a), (b), or (c) of this section.'' in subsection (d), as redesignated and inserting ''subsection (a).''; and

(9) striking subsections (h) and (i).

SEC. 314. INVESTIGATION AND SUSPENSION OF NEW RAIL RATES, ETC.

Section 10707 is amended by—

(1) striking the first sentence of subsection (a) and inserting ''When a new individual or joint rate or individual or joint classification, rule, or practice related to a rate is proposed by a rail carrier providing transportation subject to the jurisdiction of the Intermodal Surface Transportation Board under chapter 105 of this title, the Transportation Board may begin a proceeding, on complaint of an interested party, to determine whether the proposed rate, classification, rule, or practice violates this part.'';

(2) striking subsection (d)(3) and redesignating subsection (d)(4) as (d)(3);

(3) striking ''or section 10761'' in subsection (d)(3), as redesignated; and

(4) striking ''the Commission shall, by rule, establish standards and procedures permitting a rail carrier to '' in subsection (d)(3), as redesignated, and inserting ''a rail carrier may''.

SEC. 315. ZONE OF RAIL CARRIER RATE FLEXIBILITY.

Section 10707a is amended by—

(1) striking ''Commencing with the fourth quarter of 1980, the'' in subsection (a)(2)(B) and inserting ''The'';

(2) striking ''subchapter I of chapter 105 of this title may'' in subsection (b)(1) and inserting ''chapter 105 of this title is authorized to'';

(3) inserting a period after ''involved'' in paragraph (1) of subsection (b) and striking the remainder of the paragraph;

(4) striking ''may not'' in subsection (b)(3) and inserting ''is not authorized to'';

(5) striking ''(A)'' and ''or (B) inflation based rate increases under section 10712 of this title applicable to that rate'' in subsection (b)(3);

(6) striking subsections (c), (d) and (e), redesignating subsections (f), (g), and (h) as subsections (d), (e), and (f), and inserting after subsection (b) the following:

''(c) In determining whether a rate is reasonable, the Transportation Board shall consider, among other factors, evidence of the following:

''(1) the amount of traffic which is transported at revenues which do not contribute to going concern value and efforts made to minimize such traffic;

''(2) the amount of traffic which contributes only marginally to fixed costs and the extent to which, if any, rates on such traffic can be changed to maximize the revenues from such traffic; and

''(3) the carrier's mix of rail traffic to determine whether one commodity is paying an unreasonable share of the carrier's overall revenues.''; and

(7) by striking subsection (d), as redesignated, and inserting the following:

''(d)(1) A finding by the Board that a rate increase exceeds the increase authorized under this section does not establish a presumption that (A) the rail carrier proposing such rate increase has or does not have market dominance over the transportation to which the rate applies, or (B) the proposed rate exceeds or does not exceed a reasonable maximum.

''(2)(A) If a rate increase authorized under this section in any year results in a revenue-variable cost percentage for the transportation to which the rate applies that is equal to or greater than 20 percentage points above the revenue-variable cost percentage applicable under section 10709(d) of this title, the Transportation Board may on complaint of an interested party, begin an investigation proceeding to determine whether the proposed rate increase violates this subtitle.

''(B) In determining whether to investigate or not to investigate any proposed rate increase that results in a revenue-variable cost percentage for the transportation to which the rate applies that is equal to or greater than the percentage described in subparagraph (A) of this paragraph (without regard to whether such rate increase is authorized under this section), the Transportation Board shall set forth its reasons therefor, giving due consideration to the following factors:

''(i) the amount of traffic which is transported at revenues which do not contribute to going concern value and efforts made to minimize such traffic;

''(ii) the amount of traffic which contributes only marginally to fixed costs and the extent to which, if any, rates on such traffic can be changed to maximize the revenues from such traffic; and

''(iii) the impact of the proposed rate or rate increase on the attainment of the national energy goals and the rail transportation policy under section 10101a of this title, taking into account the railroads' role as a primary source of energy transportation and the need for a sound rail transportation system in accordance with the revenue adequacy goals of section 10704 of this title.

This subparagraph shall not be construed to change existing law with regard to the nonreviewability of such determination.''.

SEC. 316. INVESTIGATION AND SUSPENSION OF NEW PIPELINE CARRIER RATES, ETC.

Section 10708 is amended by—

(1) striking subsection (a)(1) and inserting the following:

''(a)(1) The Intermodal Surface Transportation Board may begin a proceeding to determine the lawfulness of a proposed rate, classification, rule, or practice on application of an interested party when a new individual or joint rate or individual or joint classification, rule, or practice affecting a rate is proposed by a pipeline carrier subject to the Transportation Board's jurisdiction under chapter 105 of this part.'';

(2) striking ''an express, sleeping car, or'' in the third sentence of subsection (b) and inserting ''a''; and

(3) striking subsections (d) through (g).

SEC. 317. DETERMINATION OF MARKET DOMINANCE.

Section 10709 is amended by—

(1) adding at the end of subsection (a) the following: ''In making a determination under this section, the Transportation Board shall consider the availability of other economic transportation alternatives, in addition to any other competitive factors it deems relevant.'';

(2) striking ''subchapter I of'' in the first sentence of subsection (b); and

(3) striking subsection (d) and inserting the following:

''(d) DETERMINATIONS OF RATE CHALLENGES.—

''(1) 180 PERCENT SAFE HARBOR.—In making a determination under this section, the Transportation Board shall find that the rail carrier establishing the challenged rate does not have market dominance over the transportation to which the rate applies if such rail carrier proves that the rate charged results in a revenue-variable cost percentage for such transportation that is less than 180 percent.

''(2) METHODOLOGY.—For purposes of determining the revenue-variable cost percentage for a particular transportation, variable costs shall be determined by using the carrier's costs, calculated using the Uniform Railroad Costing System (or an alternative cost finding methodology adopted by the Transportation Board in lieu thereof), with use of the current cost of capital for calculating the return on investment, and indexed quarterly to account for current wage and price levels in the region in which the carrier operates.

''(3) BURDEN OF PROOF; REBUTTAL.—A rail carrier may meet its burden of proof under this subsection by so establishing its variable costs, but a shipper may rebut that showing by evidence of such type, and in accordance with such burden of proof, as the Transportation Board may prescribe.

''(4) NO PRESUMPTIONS CREATED.—A finding by the Transportation Board that a rate charged by a rail carrier results in a revenue-variable cost percentage for the transportation to which the rate applies that is equal to or greater than 180 percent does not establish a presumption that—

''(A) such rail carrier has or does not have market dominance over such transportation, or

''(B) the proposed rate exceeds or does not exceed a reasonable maximum.''.

SEC. 318. CONTRACTS.

Section 10713 is amended by—

(1) striking ''subchapter I of'' in the first sentence of subsection (a);

(2) striking subsection (b)(1) and inserting the following:

''(b)(1) A summary of each contract for the transportation of agricultural products, including grain as defined in section 3 of the United States Grain Standards Act (7 U.S.C. 75) and products thereof, entered into under this section shall be filed with the Transportation Board,

containing such nonconfidential information as the Transportation Board prescribes. The Transportation Board shall publish special rules for such contracts in order to assure that the essential terms of the contract are available to the general public. The parties to any such contract shall supply a copy of the full contract to the Transportation Board upon request.'';

(3) striking ''in tariff format'' in subparagraphs (A) and (C) of subsection (b)(2);

(4) striking subsection (b)(2)(D);

(5) striking ''other than a contract for the transportation of agricultural commodities (including forest products and paper),'' in subsection (d)(2)(A) and inserting ''for the transportation of agricultural commodities,'';

(6) strike ''only'' in (d)(2)(A)(i);

(7) striking ''the case of a contract for the transportation of agricultural commodities (including forest products and paper), in'' in subsection (d)(2)(B);

(8) inserting ''of agricultural commodities'' after ''filed by a shipper'' in subsection (d)(2)(B);

(9) striking the last sentence of subsection (d)(2)(B);

(10) striking ''A contract that is approved by the Commission'' in subsection (i)(1) and inserting ''In any contract entered into after the effective date of the Interstate Commerce Commission Sunset Act of 1995, if the shipper in writing expressly waives all rights and remedies under this part for the transportation covered by the contract, a contract entered into'';

(11) striking subsections (l) and (m); and

(12) striking ''(including forest products but not including wood pulp, wood chips, pulpwood or paper)'' in subsection (i)(1).

SEC. 319. GOVERNMENT TRAFFIC.

The text of section 10721 is amended to read as follows:

''A carrier providing transportation or service for the United States Government may transport property or individuals for the United States Government without charge or at a rate reduced from the applicable commercial rate. Section 3709 of the Revised Statutes (41 U.S.C. 5) does not apply when transportation for the United States Government can be obtained from a carrier lawfully operating in the area where the transportation would be provided.''.

SEC. 320. RATES AND LIABILITY BASED ON VALUE.

Section 10730 is amended by—

(1) striking subsections (a) and (b);

(2) striking ''(c)'';

(3) striking ''rail carrier'' and inserting ''carrier''; and

(4) striking ''subchapter I of''.

SEC. 321. PROHIBITIONS AGAINST DISCRIMINATION BY COMMON CARRIERS.

Section 10741 is amended by—

(1) striking ''subchapter I of'' in subsection (a);

(2) striking subsection (c) and inserting the following:

''(c) A carrier providing transportation subject to the jurisdiction of the Transportation Board under chapter 105 of this title may not subject a freight forwarder providing service subject to jurisdiction under part B of this subtitle to unreasonable discrimination whether or not the freight forwarder is controlled by that carrier.'';

(3) striking ''subchapter I of'' in subsection (e);

(4) striking subsection (f)(1) and inserting the following: ''(1) contracts under section 10713 of this title;'';

(5) striking paragraphs (2), (3), and (5) of subsection (f) and redesignating paragraph (4) as paragraph (2); and

(6) striking ''paragraphs (2), (3), and (4)'' in subsection (f) and inserting ''paragraph (2)''.

SEC. 322. FACILITIES FOR INTERCHANGE OF TRAFFIC.

Section 10742 is amended by—

(1) striking ''subchapter I or III of'' and ''passengers and''; and

(2) striking ''either of those subchapters.'' and inserting ''Part A or B of this subtitle.''.

SEC. 323. LIABILITY FOR PAYMENT OF RATES.

Section 10744 is amended by—

(1) striking '', motor, or water common'' in the first sentence of subsection (a)(1);

(2) striking ''or express'' in the first sentence of subsection (b);

(3) striking ''subtitle'' in the first sentence of subsections (a)(1) and (b) and inserting ''part'';

(4) striking paragraph (2) of subsection (c) and renumbering paragraph (3) as paragraph (2); and

(5) striking ''or express'' in subsection (c)(2), as redesignated.

SEC. 324. CONTINUOUS CARRIAGE OF FREIGHT.

Section 10745 is amended by striking ''subchapter I of''.

SEC. 325. TRANSPORTATION SERVICES OR FACILITIES FURNISHED BY SHIPPER.

Section 10747 is amended by—

(1) striking the first and second sentences and inserting the following: ''A carrier providing transportation or service subject to the jurisdiction of the Intermodal Surface Transportation Board under chapter 105 of this title may establish a charge or allowance for transportation or service for property when the owner of the property, directly or indirectly, furnishes a service related to or an instrumentality used in the transportation or service. The Transportation Board may prescribe the maximum reasonable charge or allowance paid for such service or instrumentality furnished.''; and

(2) striking ''on its own initiative or'' in the last sentence.

SEC. 326. DEMURRAGE CHARGES.

Section 10750 is amended by striking ''subchapter I of''.

SEC. 327. TRANSPORTATION PROHIBITED WITHOUT TARIFF.

Section 10761 is amended to read as follows:

''§ 10761. Transportation of agricultural products prohibited without tariff

''Except when providing transportation by contract as provided in this subtitle, a carrier providing transportation of agricultural products, including grain as defined in section 3 of the United States Grain Standards Act (7 U.S.C. 75) and products thereof, and fertilizer and components thereof, subject to the jurisdiction of the Intermodal Surface Transportation Board under chapter 105 of this title shall provide that transportation only if the rate for the transportation is contained in a tariff that is in effect under this subchapter. A carrier subject to this subsection may not charge or receive a different compensation for that transportation than the rate specified in the tariff whether by returning a part of that rate to a person, giving a person a privilege, allowing the use of a facility that affects the value of that transportation, or another device.''.

SEC. 328. GENERAL ELIMINATION OF TARIFF FILING REQUIREMENTS.

Section 10762 is amended to read as follows:

''§ 10762. General elimination of tariff filing requirements

''(a) Except as provided in section 10713 of this title, a carrier providing transportation of agricultural products including grain as defined in section 3 of the United States Grain Standards Act (7 U.S.C. 75) and products thereof, and fertilizer and components thereof, subject to the jurisdiction of the Intermodal Surface Transportation Board under chapter 105 of this title shall publish, keep open and retain for public inspection, and immediately furnish to an entity requesting the same, tariffs containing its rates for the transportation of such commodities and its classifications, rules, and practices related to such rates. Tariffs are not required for any other commodity.

''(b)(1) Within 180 days after the enactment of the Interstate Commerce Commission Sunset Act of 1995, the Intermodal Surface Transportation Board shall prescribe the form and manner of publishing, keeping open, furnishing to the public, and retaining for public inspection tariffs under this section. The Transportation Board may prescribe specific charges to be identified in a tariff required under this section to be published, kept open, furnished to the public, or retained for public inspection, but those tariffs must identify plainly—

''(A) the places between which property will be transported;

''(B) privileges given and facilities allowed; and

''(C) any rules that change, affect, or determine any part of the published rate.

''(2) A joint tariff published by a carrier under this section shall identify the carriers that are parties to it.

''(c)(1) When a carrier proposes to change a rate for transportation subject to this section, or a classification, rule, or practice related to such rate, the carrier shall publish, transmit, and keep open for public inspection a notice of the proposed change as required under subsections (a) and (b) of this section.

''(2) A notice published under this subsection shall plainly identify the proposed change or new or reduced rate and indicate its proposed effective date. A proposed rate change resulting in an increased rate or a new rate shall not become effective for 20 days after the notice is published and a proposed rate change resulting in a reduced rate shall not become effective for 1 day after the notice is published, except that a contract authorized under section 10713 of this title shall become effective in accordance with the provisions of such section.

''(d) The Transportation Board may reduce the notice period of subsection (c) of this section if cause exists. The Transportation Board may change the other requirements of this section if cause exists in particular instances or as they apply to special circumstances.

''(e) Acting in response to a complaint or on its own motion, the Transportation Board may reject a tariff published under this section if that tariff violates this section or a regulation of the Transportation Board carrying out this section.''.

SEC. 329. DESIGNATION OF CERTAIN ROUTES.

Section 10763 is amended by striking ''subchapter I of'' in subsection (a)(1).

SEC. 330. AUTHORIZING CONSTRUCTION AND OPERATION OF RAILROAD LINES.

Section 10901 is amended by—

(1) striking ''subchapter I of'' in subsection (a); and

(2) adding at the end the following new subsection:

''(f) SPECIAL RULE FOR NON-CLASS I TRANSACTIONS.—For all transactions involving Class II freight rail carriers, Class III freight rail carriers and non-carriers, that are not owned or controlled by a Class I rail carrier and that are not a commuter, switching or terminal railroad, which propose to acquire, construct, operate, or provide transportation over a railroad line pursuant to this section, the Transportation Board may, consistent with the public interest, require an arrangement for the protection of the interest of railroad employees who are adversely affected by the transaction not to exceed one year's salary per adversely affected employee and protection no less than required by sections 2 through 5 of the Worker Adjustment and Retraining Act, unless the adversely affected employees or their representatives and the parties to the transaction agree otherwise.''.

SEC. 331. AUTHORIZING ACTION TO PROVIDE FACILITIES.

Section 10902 is amended by striking ''subchapter I of'' in the first sentence.

SEC. 332. AUTHORIZING ABANDONMENT AND DISCONTINUANCE.

Section 10903 is amended by striking ''subchapter I of'' in subsection (a).

SEC. 333. FILING AND PROCEDURE FOR APPLICATIONS TO ABANDON OR DISCONTINUE.

Section 10904 is amended by—

(1) striking ''subchapter I of'' in subsection (a)(2);

(2) striking subsection (d)(2);

(3) striking ''(1)'' in subsection (d); and

(4) striking ''the application was approved by the Secretary of Transportation as part of a plan or proposal under section 333(a)–(d) of this title, or'' in subsection (e)(3).

SEC. 334. EXCEPTIONS.

Section 10907 is amended by striking ''subchapter I of'' in subsection (a).

SEC. 335. RAILROAD DEVELOPMENT.

Section 10910 is amended by—

(1) striking paragraph (2) of subsection (a) and inserting the following:

''(2) 'railroad line' means any line of railroad.'';

(2) striking ''the effective date of the Staggers Rail Act of 1980'' in subsection (g)(2), and inserting ''October 1, 1980,''; and

(3) striking subsection (k) and inserting the following:

''(k) The Transportation Board shall maintain such regulations and procedures as may be necessary to carry out the provisions of this section.''.

SEC. 336. PROVIDING TRANSPORTATION, SERVICE, AND RATES.

Section 11101 is amended to read as follows:

''§ 11101. Providing transportation, service, and rates

''(a) A carrier providing transportation or service subject to the jurisdiction of the Intermodal Surface Transportation Board under chapter 105 of this title shall provide the transportation or service on reasonable request.

''(b) Notwithstanding any other provision of this title, a rail carrier providing transportation service subject to the jurisdiction of the Transportation Board under chapter 105 of this title shall provide, on reasonable written request, common carrier rates and other common carrier service terms of the type requested for specified services between specified points. The response by a rail carrier to a request for such rates or other service terms shall be in writing, or shall be available electronically, and forwarded to the requesting person no later than 30 days after receipt of the request. A rail carrier shall not refuse to respond to a reasonable request under this subsection on grounds that the movement at issue is subject at the time a request is made to a contract entered into under section 10713 of this title.

''(c) Common carrier rates and service terms provided pursuant to subsection (b) of this section shall be subject to the provisions of this title.

''(d) A rail carrier may not increase any common carrier rates, or change any common carrier service terms, provided pursuant to subsection (b) unless at least 20 days' written or electronic notice is first provided to the person that, within the previous 12 months, made a written or electronic request for the issue rate or service. Any such increases or changes shall be subject to provisions of this subtitle.''.

SEC. 337. USE OF TERMINAL FACILITIES.

Section 11103 is amended by striking ''subchapter I of'' in subsection (a).

SEC. 338. SWITCH CONNECTIONS AND TRACKS.

Section 11104 is amended by striking ''subchapter I of'' in subsection (a).

SEC. 339. CRITERIA.

Section 11121 is amended by—

(1) striking ''subchapter I of'' in subsection (a)(1);

(2) striking subsection (a)(2) and inserting the following:

''(2) The Transportation Board may require a rail carrier to file its car service rules with the Transportation Board.'';

(3) striking '', 11127,'' in subsection (b); and

(4) adding at the end the following:

''(c) The Transportation Board shall consult, as it deems necessary, with the National Grain Car Council on matters within the charter of that body.''.

SEC. 340. REROUTING TRAFFIC ON FAILURE OF RAIL CARRIER TO SERVE PUBLIC.

Section 11124 is amended by striking ''subchapter I of'' in subsection (a).

SEC. 341. DIRECTED RAIL TRANSPORTATION.

Section 11125 is amended by striking ''subchapter I of'' in subsection (a).

SEC. 342. WAR EMERGENCIES; EMBARGOES.

Section 11128 is amended by—

(1) striking ''sections 11123(a)(4) and 11127(a)(1)(C)'' and inserting ''section 11123(a)'' in subsection (a)(1); and

(2) striking ''subchapter I of'' in subsection (a)(2).

SEC. 343. DEFINITIONS FOR SUBCHAPTER III.

Section 11141 is amended to read as follows:

''§ 11141. Definitions

''In this subchapter—

''(1) 'carrier' and 'lessor' include a receiver or trustee of a carrier and lessor respectively.

''(2) 'lessor' means a person owning a railroad or a pipeline that is leased to and operated by a carrier providing transportation subject to the jurisdiction of the Intermodal Surface Transportation Board under chapter 105 of this title.

''(3) 'association' means an organization maintained by or in the interest of a group of carriers providing transportation or service subject to the jurisdiction of the Intermodal Surface Transportation Board that performs a service, or engages in activities, related to transportation under this part.''.

SEC. 344. DEPRECIATION CHARGES.

Section 11143 is amended by—

(1) striking ''subchapter I or III of''; and

(2) striking ''and may, for a class of carriers providing transportation subject to its jurisdiction under subchapter II of that chapter,''.

SEC. 345. RECORDS, ETC.

Section 11144 is amended by—

(1) striking '', brokers,'' in subsection (a)(1);

(2) striking ''or express'' and ''subchapter I of'' in subsection (a)(2);

(3) striking '', broker,'' in subsection (b)(1);

(4) striking ''broker,'' in subsection (b)(2)(A);

(5) striking ''or express'' in subsection (b)(2)(C);

(6) redesignating subsection (d) as subsection (c); and

(7) striking ''brokers,'' in subsection (c), as redesignated.

SEC. 346. REPORTS BY CARRIERS, LESSORS, AND ASSOCIATIONS.

Section 11145 is amended by—

(1) striking ''brokers,'' in subsection (a)(1);

(2) striking ''or express,'' in subsection (a)(2);

(3) striking ''broker,'' in the first sentence of subsection (b)(1);

(4) striking the second sentence of subsection (b)(1); and

(5) striking subsection (c).

SEC. 347. ACCOUNTING AND COST REPORTING.

Section 11166 is amended by—

(1) striking ''subchapter I of'' in the first sentence of subsection (a);

(2) striking the third sentence of subsection (a); and

(3) striking ''the cost accounting principles established by the Transportation Board or under generally accepted accounting principles or the requirements of the Securities and Exchange Commission'' in subsection (b) and inserting ''the appropriate cost accounting principles''.

SEC. 348. SECURITIES, OBLIGATIONS, AND LIABILITIES.

Section 11301(a)(1) is amended by—

(1) striking ''or sleeping car''; and

(2) striking ''subchapter I of''.

SEC. 349. EQUIPMENT TRUSTS.

Section 11303 is amended by adding at the end thereof the following:

''(c) The Transportation Board shall collect, maintain and keep open for public inspection a railway equipment register consistent with the manner and format maintained at the time of enactment of the Interstate Commerce Commission Sunset Act of 1995.

''(d) A mortgage, lease, equipment trust agreement, conditional sales agreement, or other instrument evidencing the mortgage, lease, conditional sale, or bailment of or security interest in railroad cars, locomotives, or other rolling stock, or accessories used on such railroad cars, locomotives, or other rolling stock (including superstructures and racks), or any assignment thereof, which—

''(1) is duly constituted under the laws of a country other than the United States; and

''(2) relates to property that bears the reporting marks and identification numbers of any person domiciled in or corporation organized under the laws of such country,

shall be recognized with the same effect as having been filed under this section.

''(e) Interests with respect to which documents are filed or recognized under this section are deemed perfected in all jurisdictions, and shall be governed by applicable State or foreign law in all matters not specifically governed by this section.''.

SEC. 350. RESTRICTIONS ON OFFICERS AND DIRECTORS.

Section 11322 is amended by—

(1) redesignating subsections (a) and (b) as subsections (b) and (c), respectively;

(2) inserting before subsection (b), as redesignated, the following:

''(a) In this section ''carrier'' means a rail carrier providing transportation subject to the jurisdiction of the Intermodal Surface Transportation Board under chapter 105 of this title (except a street, suburban, or interurban electric railway not operated as a part of a general railroad system of transportation), and a corporation organized to provide transportation by rail carrier subject to that chapter.'';

(3) striking ''as defined in section 11301(a)(1) of this title'' in subsection (b) as redesignated; and

(4) striking ''subsection (a)'' and inserting ''subsection (b)'' in subsection (c), as redesignated.

SEC. 351. LIMITATION ON POOLING AND DIVISION OF TRANSPORTATION OR EARNINGS.

Section 11342 is amended by—

(1) striking ''subchapter I, II, or III of'' in the first sentence of subsection (a);

(2) striking ''Except as provided in subsection (b) for agreements or combinations between or among motor common carriers of property, the'' in the second sentence of subsection (a) and inserting ''The''; and

(3) striking subsections (b) and (d) and redesignating subsections (c) and (e) as subsections (b) and (c), respectively.

SEC. 352. CONSOLIDATION, MERGER, AND ACQUISITION OF CONTROL.

Section 11343 is amended by—

(1) inserting ''(except a pipeline carrier)'' after ''involving carriers'' in subsection (a);

(2) striking ''subchapter I (except a pipeline carrier), II, or III of'' in subsection (a);

(3) striking paragraph (1) of subsection (d) and striking ''(2)'' in paragraph (2); and

(4) striking subsection (e).

SEC. 353. GENERAL PROCEDURE AND CONDITIONS OF APPROVAL FOR CONSOLIDATION, ETC.

Section 11344 is amended by—

(1) striking the third sentence in subsection (a);

(2) striking ''subchapter I of that chapter'' in the last sentence of subsection (a) and inserting ''chapter 105'';

(3) striking paragraph (2) of subsection (b) and striking ''(1)'' in the first paragraph of subsection (b);

(4) striking ''transaction.'' at the end of the second sentence of subsection (c) and inserting

''transaction, including the divestiture of parallel tracks or requiring the granting of trackage rights and access to other facilities. Any trackage rights and related conditions imposed to alleviate anticompetitive effects of the transaction shall provide for operating terms and compensation levels to ensure that such effects are alleviated.'';

(5) striking the fourth sentence of subsection (c);

(6) striking ''When a rail carrier is involved in the transaction, the'' in the last sentence of subsection (c) and inserting ''The'';

(7) striking the last two sentences of subsection (d); and

(8) striking subsection (e).

SEC. 354. RAIL CARRIER PROCEDURE FOR CONSOLIDATION, ETC.

Section 11345 is amended by—

(1) striking ''subchapter I of'' in the first sentence of subsection (a);

(2) inserting '', including comments by the Secretary of Transportation and the Attorney General,'' before ''may be filed'' in the first sentence of subsection (c)(1);

(3) striking the last two sentences of subsection (c)(1);

(4) inserting '', including comments by the Secretary of Transportation and the Attorney General,'' before ''may be filed'' in the first sentence of subsection (d)(1); and

(5) striking the last two sentences of subsection (d)(1).

SEC. 355. EMPLOYEE PROTECTIVE ARRANGEMENTS.

Section 11347 is amended by striking ''or section 11346'' in the first sentence.

SEC. 356. AUTHORITY OVER NONCARRIER ACQUIRERS.

Section 11348(a) is amended by striking all after the colon and inserting ''sections 504(f) and 10764, subchapter III of chapter 111, and sections 11301, 11901(e), and 11909.''.

SEC. 357. AUTHORITY OVER INTRASTATE TRANSPORTATION.

Section 11501 is amended by—

(1) striking subsections (a), (e), (g) and (h) and redesignating subsections (b), (c), (d), and (f) as subsections (a), (b), (c) and (d), respectively;

(2) striking paragraphs (2) through (6) of subsection (a), as redesignated;

(3) striking ''(1)'' and ''subchapter I of'' in subsection (a), as redesignated;

(4) striking ''subchapter I of'' in subsection (b), as redesignated;

(5) striking ''subchapter I of'' in subsection (c)(1), as redesignated;

(6) striking ''subsection (a) of this section and'' in subsection (c)(2), as redesignated; and

(7) striking the first sentence of subsection (d), as redesignated, and inserting the following: ''The Transportation Board may take action under this section only after a full hearing.''.

SEC. 358. TAX DISCRIMINATION AGAINST RAIL TRANSPORTATION PROPERTY.

Section 11503 is amended by—

(1) striking ''subchapter I of'' in subsection (a)(3); and

(2) striking ''subchapter I of'' in subsection (b)(4).

SEC. 359. WITHHOLDING STATE AND LOCAL INCOME TAX BY CERTAIN CARRIERS.

Section 11504 is amended by—

(1) striking ''subchapter I of'' in subsection (a);

(2) striking subsections (b) and (c) and redesignating subsection (d) as subsection (b); and

(3) striking '', motor, and motor private'' and ''subsection (a) or (b) of'' in subsection (b), as redesignated.

SEC. 360. GENERAL AUTHORITY FOR ENFORCEMENT, INVESTIGATIONS, ETC.

Section 11701 is amended by—

(1) striking '', broker or freight forwarder'' in the second and fourth sentences of subsection (a);

(2) striking the third sentence of subsection (a);

(3) striking the first 2 sentences of subsection (b) and inserting the following: ''A person, including a governmental authority, may file with the Transportation Board a complaint about a violation of this part by a carrier providing transportation or service subject to the jurisdiction of the Transportation Board under this part. The complaint must state the facts that are the subject of the violation.''; and

(4) striking ''subchapter I of'' in the last sentence of subsection (b).

SEC. 361. ENFORCEMENT.

Section 11702 is amended by—

(1) striking ''(a)'' in subsection (a);

(2) striking paragraphs (4) through (6) of subsection (a);

(3) striking ''or 10933'' in paragraph (1);

(4) striking paragraph (2) and inserting the following:

''(2) to enforce subchapter III of chapter 113 of this title and to compel compliance with an order of the Transportation Board under that subchapter; and''

(5) striking ''subchapter I of'' in paragraph (3);

(6) striking the semicolon at the end of paragraph (3) and inserting a period; and

(7) striking subsection (b).

SEC. 362. ATTORNEY GENERAL ENFORCEMENT.

Section 11703 is amended by striking ''or permit'' wherever it appears in subsection (a).

SEC. 363. RIGHTS AND REMEDIES.

Section 11705 is amended by—

(1) striking ''or a freight forwarder'' in subsection (a);

(2) striking subsection (b)(1) and inserting the following:

''(b)(1) A carrier providing transportation or service subject to the jurisdiction of the Transportation Board under chapter 105 of this title is liable to a person for amounts charged that exceed the applicable rate for the transportation or service.'';

(3) striking ''subparagraph I or III of'' in subsection ((b)(2);

(4) striking subsection (b)(3);

(5) striking ''subchapter I or III of'' in the first sentence of subsection (c)(1);

(6) striking the second sentence of subsection (c)(1);

(7) striking ''subchapter I or III of'' in the second sentence of subsection (c)(2);

(8) striking ''subchapter I or III of'' in the first sentence of subsection (d)(1); and

(9) striking '', or (D) if a water carrier, in which a port of call on a route operated by that carrier is located'' and inserting ''or'' before ''(C)'' in the fourth sentence of subsection (d)(1).

SEC. 364. LIMITATION ON ACTIONS.

Section 11706 is amended by—

(1) striking subsection (a) and inserting the following:

''(a) A carrier providing transportation or service subject to the jurisdiction of the Intermodal Surface Transportation Board under chapter 105 of this title must begin a civil action to recover charges for the transportation or service provided by the carrier within 3 years after the claim accrues.'';

(2) striking the first sentence of subsection (b) and inserting ''A person must begin a civil action to recover overcharges under section 11705(b)(1) of this title within 3 years after the claim accrues.'';

(3) striking ''subchapter I or III of'' in the last sentence of subsection (b);

(4) striking ''(1)'' in subsection (c);

(5) striking paragraph (2) of subsection (c); and

(6) striking ''(c)(1)'' in the second sentence of subsection (d) and inserting ''(c)''.

SEC. 365. LIABILITY OF COMMON CARRIERS UNDER RECEIPTS AND BILLS OF LADING.

(a) Section 11707 is amended by—

(1) striking ''(a)(1)'' in subsection (a) and inserting ''(a)'';

(2) striking paragraph (2) of subsection (a);

(3) striking ''subchapter I, II, or IV of'' and ''and a freight forwarder'' in the first sentence of subsection (a), as amended;

(4) striking ''or freight forwarder'' in the second sentence of subsection (a), as amended;

(5) striking ''subchapter I, II, or IV'' in the second sentence of subsection (a), as amended, and inserting ''chapter 105 or subject to jurisdiction under part B of this subtitle'';

(6) striking '', except in the case of a freight forwarder,'' in the third sentence of subsection (a), as amended;

(7) striking ''diverted under a tariff filed under subchapter IV of chapter 107 of this title.'' in the third sentence of subsection (a), as amended, and inserting ''diverted.'';

(8) striking ''or freight forwarder'' in the fourth sentence of subsection (a);

(9) striking ''and freight forwarder'' in subsection (c)(1), and striking ''filed with the Commission'';

(10) striking paragraph (3) of subsection (c) and redesignating paragraph (4) as paragraph (3);

(11) striking ''or freight forwarder'' wherever it appears in subsection (e); and

(12) striking ''or freight forwarder's'' in subsection (e)(2).

(b) The index for chapter 117 is amended by striking out the item relating to section 11707 and inserting in lieu thereof the following:

''Sec. 11707. Liability of Carriers under receipts and bills of lading.''.

SEC. 366. LIABILITY WHEN PROPERTY IS DELIVERED IN VIOLATION OF ROUTING INSTRUCTIONS.

Section 11710 is amended by striking ''subchapter I of'' in subsection (a)(1).

SEC. 367. GENERAL CIVIL PENALTIES.

Section 11901 is amended by:

(1) striking ''subchapter I of'' in subsection (a) and subsection (b);

(2) striking subsection (c) and subsections (g) through (l), and redesignating subsections (d) through (f) as (c) through (e), respectively, and subsection (m) as (f);

(3) striking ''11127'' in subsection (d), as redesignated;

(4) striking ''(1)'' in subsection (d), as redesignated, and striking paragraph (2) of that subsection;

(5) striking ''subchapter I of'' each place it appears in subsection (e), as redesignated;

(6) striking ''(1)'' in subsection (f), as redesignated, and striking paragraph (2) of that subsection; and

(7) striking ''subsections (a)-(f) of'' in subsection (f), as redesignated.

SEC. 368. CIVIL PENALTY FOR ACCEPTING REBATES FROM COMMON CARRIER.

Section 11902 is amended by striking ''contained in a tariff filed with the Commission under subchapter IV of chapter 107 of this title''.

SEC. 369. RATE, DISCRIMINATION, AND TARIFF VIOLATIONS.

Section 11903 is amended by striking ''under chapter 107 of this title'' in subsection (a).

SEC. 370. ADDITIONAL RATE AND DISCRIMINATION VIOLATIONS.

Section 11904 is amended by—

(1) striking subsections (b) through (d);

(2) striking ''(a)(1)'' in subsection (a) and inserting ''(a)'';

(3) redesignating paragraphs (2) and (3) of subsection (a) as subsections (b) and (c), respectively;

(4) striking ''(A)'' and ''(B)'' in subsection (b), as redesignated, and inserting ''(1)'' and ''(2)'', respectively;

(5) striking ''subchapter I of'' in subsections (b) and (c), as redesignated; and

(6) striking 'under chapter 107 of this title'' in subsection (b), as redesignated.

SEC. 371. INTERFERENCE WITH RAILROAD CAR SUPPLY.

Section 11907 is amended by striking ''subchapter I of'' in subsections (a) and (b).

SEC. 372. RECORD KEEPING AND REPORTING VIOLATIONS.

Section 11909 is amended by—

(1) striking subsections (b) through (d);

(2) striking ''subchapter I of'' in subsection (a); and

(3) striking ''(a)'' in subsection (a).

SEC. 373. UNLAWFUL DISCLOSURE OF INFORMATION.

Section 11910 is amended by—

(1) striking paragraphs (2) through (4) of subsection (a);

(2) striking ''(a)(1)'' in subsection (a) and inserting ''(a)'';

(3) striking ''(A)'' and ''(B)'' in subsection (a) and inserting ''(1) and ''(2)'', respectively;

(4) striking ''subchapter I of'' in subsections (a) and (d); and

(5) striking ''or broker'' in subsection (b).

SEC. 374. CONSOLIDATION, MERGER, AND ACQUISITION OF CONTROL.

Section 11912 is amended by striking out ''11346,''.

SEC. 375. GENERAL CRIMINAL PENALTY.

Section 11914 is amended by—

(1) striking subsections (b) through (d);

(2) striking ''(a)'' in subsection (a);

(3) striking ''subchapter I of'' in the first sentence; and

(4) striking ''11321(a) or'' in the last sentence.

SEC. 376. FINANCIAL ASSISTANCE FOR STATE PROJECTS.

Section 22101 is amended by striking ''subchapter I of'' in the first sentence of subsection (a).

SEC. 377. STATUS OF AMTRAK AND APPLICABLE LAWS.

Section 24301 is amended by striking ''subchapter I of'' in subsections (c)(2)(B) and (d).

SEC. 378. RAIL-SHIPPER TRANSPORTATION ADVISORY COUNCIL.

(a) ESTABLISHMENT.—Chapter 103 is amended by adding at the end thereof the following:

''SUBCHAPTER VI. RAIL—SHIPPER TRANSPORTATION ADVISORY COUNCIL

§10391. Rail—Shipper Transportation Advisory Council

''(a) ESTABLISHMENT; MEMBERSHIP.—There is established the Rail-Shipper Transportation Advisory Council (hereinafter in this section referred to as the ''Council'') to be composed of 15 members appointed by the Chairman of the Transportation Board, after recommendation from carriers and shippers, within 60 days after the date of enactment of the Interstate Commerce Commission Sunset Act of 1995. The members of the Council shall be appointed as follows:

''(1) The members of the Council shall be appointed from among citizens of the United States who are not regular full-time employees of the United States and shall be selected for appointment so as to provide as nearly as practicable a broad representation of the various segments of the rail and rail shipper industry.

''(2) Nine of the members shall be appointed from senior executive officers of organizations engaged in the railroad and rail shipping industry, which 9 members shall be the voting members of the Council. Council action and Council positions shall be determined by a majority vote of the members or by a majority vote of a quorum thereof. A majority of such voting members shall constitute a quorum. Of such 9 voting members—

''(A) at least 4 shall be representative of small shippers (as determined by the Chairman); and

''(B) at least 4 shall be representative of small railroads (Class II or III).

''(3) The remaining 6 members of the Council shall serve in a non-voting advisory capacity only, but shall be entitled to participate in Council deliberations. Of the remaining members—

''(A) 3 shall be from Class I railroads; and

''(B) 3 shall be from large shipper organizations (as determined by the Chairman).

''(4) The Secretary of Transportation and the members of the Transportation Board shall serve as ex officio members of the Council. The Council shall not be subject to the Federal Advisory Committee Act. A list of the members appointed to the Council shall be forwarded to the Chairmen and ranking members of the Senate Committee on Commerce, Science, and Transportation and the House Committee on Transportation and Infrastructure.

''(5) Each ex officio member of the Council may designate an alternate, who shall serve as a member of the Council whenever the ex officio member is unable to attend a meeting of the Council. Any such designated alternate shall be selected from individuals who exercise significant decision-making authority in the Federal agency involved.

''(b) TERM OF OFFICE.—The members of the Council shall be appointed for a term of office of three years, except that of the members first appointed—

''(1) 5 members shall be appointed for terms of 1 year, and

''(2) 5 members shall be appointed for terms of 2 years,

as designated by the Chairman at the time of appointment. Any member appointed to fill a vacancy occurring before the expiration of the term for which the member's predecessor was appointed shall be appointed only for the remainder of such term. A member may serve after the expiration of his term until his successor has taken office. Vacancies on the Council shall be filled in the same manner in which the original appointments were made. No member of the Council shall be eligible to serve in excess of two consecutive terms.

''(c) ELECTION AND DUTIES OF OFFICERS.—The Council Chairman and Vice Chairman and other appropriate officers of the Council shall be elected by and from the voting members of the Council. The Council Chairman shall serve as the Council's executive officer and shall direct the administration of the Council, assign officer and committee duties, and shall be responsible for issuing and communicating the reports, policy positions and statements of the Council. In the event that the Council Chairman is unable to serve, the Vice Chairman shall act as Council Chairman.

''(d) EXPENSES.—The members of the Council shall receive no compensation for their services as such, but upon request by the Council Chairman, based on a showing of significant economic burden, the Secretary of Transportation or the Chairman may provide reasonable and necessary travel expenses for such individual Council members from Department or Transportation Board funding sources in order to foster balanced representation on the Council. Upon request by the Council Chairman, the Secretary or Chairman may but is not required to pay the reasonable and necessary expenses incurred by the Council in connection with the coordination of Council activities, announcement and reporting of meetings, and preparation of such Council documents as are required or permitted by this Act. However, prior to making any funding requests the Council Chairman shall undertake best efforts to fund such activities privately unless he or she reasonably feels such private funding would create irreconcilable conflicts or the appearance thereof, or is otherwise impractical. The Council Chairman shall not request funding from any federal agency unless he or she provides written justification as to why private funding would create such conflict or appearance, or is otherwise impractical. To enable the Council to carry out its functions—

''(1) the Council Chairman may request directly from any Federal department or agency such personnel, information, services, or facilities, on a compensated or uncompensated basis, as he or she determines necessary to carry out the functions of the Council;

''(2) each Federal department or agency may, in their discretion, furnish the Council with such information, services, and facilities as the Council Chairman may request to the extent permitted by law and within the limits of available funds; and

''(3) Federal agencies and departments may, in their discretion, detail to temporary duty with the Council, such personnel as the Council Chairman may request for carrying out the functions of the Council, each such detail to be without loss of seniority, pay, or other employee status.

''(e) MEETINGS.—The Council shall meet at least semi-annually and shall hold such other meetings as deemed prudent by and at the call of the Council Chairman. Appropriate federal facilities, where available, may be used for such meetings. Whenever the Council, or a committee of the Council, considers matters that affect the jurisdictional interests of Federal agencies that are not represented on the Council, the Council Chairman may invite the heads of such agencies, or their alternates, to participate in the deliberations of the Council.

''(f) FUNCTIONS AND DUTIES; ANNUAL REPORT.—The Council shall advise the Secretary, Chairman, and relevant Congressional transportation policy oversight committees with respect to rail transportation policy issues it deems significant, with particular attention to issues of importance to small shippers and small railroads, including car supply, rates, competition, and effective procedures for addressing legitimate shipper and other claims. To the extent the Council addresses specific grain car issues, it shall coordinate such activities with the Grain Car Council. The Secretary and Chairman shall work in cooperation with the Council to provide research, technical and other reasonable support in developing any documents provided for hereby. The Council shall endeavor to develop within the private sector mechanisms to prevent or identify and effectively address obstacles to the most effective and efficient transportation system practicable. The Council shall prepare an annual report concerning its activities and the results of Council efforts to resolve industry issues within the Council structure in lieu of seeking regulatory or legislative relief, and propose whatever regulatory or legislative relief it deems appropriate in the event such efforts are unsuccessful. The Council shall include therein such recommendations as it deems appropriate with respect to the performance of the Secretary and Chairman under this chapter, and with respect to the operation and effectiveness of meetings and industry developments relating to the Council's efforts, and such other information as it deems appropriate. Such annual reports shall be reviewed by the Secretary and Chairman, and shall include the Secretary's and Chairman's views or comments relating to the accuracy of information therein, Council efforts and reasonableness of Council positions and actions and any other aspects of the Council's work as they may deem appropriate. The Council may prepare other reports or develop policy statements as the Council deems appropriate. Each annual report shall cover a fiscal year and shall be submitted to the Secretary and Chairman on or before the thirty-first day of December following the close of the fiscal year. Other such reports and statements may be communicated as the Council deems appropriate.''.

(b) CONFORMING AMENDMENT.—The table of subchapters for chapter 103 is amended by adding at the end thereof the following:

''SUBCHAPTER VI. RAIL AND SHIPPER TRANSPORTATION ADVISORY COUNCIL

''10391. Rail and shipper advisory council.''.

TITLE IV—MOTOR CARRIER, WATER CARRIER, BROKER, AND FREIGHT FORWARDER TRANSPORTATION

Subtitle A—Addition of Part B

SEC. 401. ENACTMENT OF PART B OF SUBTITLE IV, TITLE 49, UNITED STATES CODE.

Subtitle IV is amended by inserting after chapter 119 the following:

''PART B—MOTOR CARRIERS, WATER CARRIERS, BROKERS, AND FREIGHT FORWARDERS

''CHAPTER 131—GENERAL PROVISIONS

''§ 13101. Transportation policy

''(a) To ensure the development, coordination, and preservation of a transportation system that meets the transportation needs of the United States, including the United States Postal Service and national defense, it is the policy of the United States Government to provide for the impartial regulation of the modes of transportation , and—

''(1) in regulating those modes—

''(A) to recognize and preserve the inherent advantage of each mode of transportation;

''(B) to promote safe, adequate, economical, and efficient transportation;

''(C) to encourage sound economic conditions in transportation, including sound economic conditions among carriers;

''(D) to encourage the establishment and maintenance of reasonable rates for transportation, without unreasonable discrimination or unfair or destructive competitive practices;

''(E) to cooperate with each State and the officials of each State on transportation matters; and

''(F) to encourage fair wages and working conditions in the transportation industry;

''(2) in regulating transportation by motor carrier, to promote competitive and efficient transportation services in order to (A) encourage fair competition, and reasonable rates for transportation by motor carriers of property; (B) promote Federal regulatory efficiency in the motor carrier transportation system and to require fair and expeditious regulatory decisions when regulation is required; (C) meet the needs of shippers, receivers, passengers, and consumers; (D) allow a variety of quality and price options to meet changing market demands and the diverse requirements of the shipping and traveling public; (E) allow the most productive use of equipment and energy resources; (F) enable efficient and well-managed carriers to earn adequate profits, attract capital, and maintain fair wages and working conditions; (G) provide and maintain service to small communities and small shippers and intrastate bus services; (H) provide and maintain commuter bus operations; (I) improve and maintain a sound, safe, and competitive privately owned motor carrier system; (J) promote greater participation by minorities in the motor carrier system; and (K) promote intermodal transportation;

''(3) in regulating transportation by motor carrier of passengers (A) to cooperate with the States on transportation matters for the purpose of encouraging the States to exercise intrastate regulatory jurisdiction in accordance with the objectives of this part; (B) to provide Federal procedures which ensure that intrastate regulation is exercised in accordance with this part; and (C) to ensure that Federal reform initiatives enacted by section 31138 of this title and the Bus Regulatory Reform Act of 1995 of 1982 are not nullified by State regulatory actions; and

''(4) in regulating transportation by water carrier, to encourage and promote service and price competition in the non-contiguous domestic trade.

''(b) This part shall be administered and enforced to carry out the policy of this section.

''§ 13102. Definitions

''In this part—

''(1) 'broker' means a person, other than a motor carrier or an employee or agent of a motor carrier, that as a principal or agent sells, offers for sale, negotiates for, or holds itself out by solicitation, advertisement, or otherwise as selling, providing, or arranging for, transportation by motor carrier for compensation.

''(2) 'carrier' means a motor carrier, a water carrier, and a freight forwarder, and, for purposes of sections 13902, 13905, and 13906, the term includes foreign motor private carriers;

''(3) 'contract carriage' means—

''(A) for transportation provided before the date of enactment of the Interstate Commerce Commission Sunset Act of 1995, service provided pursuant to a permit issued under former section 10923 of this subtitle; and

''(B) for transportation provided on or after that date, service provided under an agreement entered into under section 14101(b) of this part;

''(4) ''control'', when referring to a relationship between persons, includes actual control, legal control, and the power to exercise control, through or by (A) common directors, officers, stockholders, a voting trust, or a holding or investment company, or (B) any other means;

''(5) 'foreign motor carrier' means a person (including a motor carrier of property but excluding a motor private carrier)—

''(A)(i) which is domiciled in a contiguous foreign country; or

''(ii) which is owned or controlled by persons of a contiguous foreign country and is not domiciled in the United States; and

''(B) in the case of a person which is not a motor carrier of property, which provides interstate transportation of property by motor vehicle under an agreement or contract entered into with a motor carrier of property (other than a motor private carrier or a motor carrier of property described in subparagraph (A));

''(6) 'foreign motor private carrier' means a person (including a motor private carrier but excluding a motor carrier of property)—

''(A)(i) which is domiciled in a contiguous foreign country; or

''(ii) which is owned or controlled by persons of a contiguous foreign country and is not domiciled in the United States; and

''(B) in the case of a person which is not a motor private carrier, which provides interstate transportation of property by motor vehicle under an agreement or contract entered into with a person (other than a motor carrier of property or a motor private carrier described in subparagraph (A));

''(7) 'freight forwarder' means a person holding itself out to the general public (other than as a pipeline, rail, motor, or water carrier) to provide transportation of property for compensation and in the ordinary course of its business—

''(A) assembles and consolidates, or provides for assembling and consolidating, shipments and performs or provides for break-bulk and distribution operations of the shipments;

''(B) assumes responsibility for the transportation from the place of receipt to the place of destination; and

''(C) uses for any part of the transportation a carrier subject to jurisdiction under part A or part B of this subtitle; but the term does not include a person using transportation of an air carrier subject to part A of subtitle VII of this title;

''(8) 'highway' means a road, highway, street, and way in a State;

''(9) 'household goods' means—

''(A) personal effects and property used or to be used in a dwelling when a part of the equipment or supply of such dwelling and similar property, whether the transportation is—

''(i) requested and paid for by the householder, including transportation of property from a factory or store when the property is purchased by the householder with intent to use in his dwelling; or

''(ii) arranged and paid for by another party;

''(B) furniture, fixtures, equipment, and the property of stores, offices, museums, institutions, hospitals or other establishments when a part of the stock, equipment, or supply of such stores, offices, museums, institutions, hospitals, or other establishments and similar property; except that this subparagraph shall not be construed to include the stock-in-trade of any establishment, whether consignor or consignee, other than used furniture and used fixtures, except when transported as incidental to moving of the establishment, or a portion thereof, from one location to another; and

''(C) articles, including objects of art, displays, and exhibits, which because of their unusual nature or value require the specialized handling and equipment usually employed in moving household goods and similar articles; except that this subparagraph shall not be construed to include any article, whether crated or uncrated, which does not, because of its unusual nature or value, require the specialized handling and equipment usually employed in moving household goods;

''(10) 'household goods freight forwarder' means a freight forwarder of one or more of the following items: household goods, unaccompanied baggage, or used automobiles;

''(11) 'motor carrier' means a person providing motor vehicle transportation for compensation, including foreign motor carriers;

''(12) 'motor private carrier' means a person, other than a motor carrier, transporting property by motor vehicle when—

''(A) the transportation is as provided in section 13501 of this title;

''(B) the person is the owner, lessee, or bailee of the property being transported; and

''(C) the property is being transported for sale, lease, rent, or bailment, or to further a commercial enterprise;

''(13) 'motor vehicle' means a vehicle, machine, tractor, trailer, or semitrailer propelled or drawn by mechanical power and used on a highway in transportation, or a combination determined by the Secretary, but does not include a vehicle, locomotive, or car operated only on a rail, or a trolley bus operated by electric power from a fixed overhead wire, and providing local passenger transportation similar to street-railway service;

''(14) 'non-contiguous domestic trade' means motor-water transportation subject to jurisdiction under chapter 135 of this title involving traffic originating in or destined to Alaska, Hawaii, or a territory or possession of the United States;

''(15) 'person', in addition to its meaning under section 1 of title 1, includes a trustee, receiver, assignee, or personal representative of a person;

''(16) 'State' means a State of the United States and the District of Columbia;

''(17) 'transportation' includes—

''(A) a motor vehicle, vessel, warehouse, wharf, pier, dock, yard, property, facility, instrumentality, or equipment of any kind related to the movement of passengers or property, or both, regardless of ownership or an agreement concerning use; and

''(B) services related to that movement, including arranging for, receipt, delivery, elevation, transfer in transit, refrigeration, icing, ventilation, storage, packing, unpacking, and interchange of passengers and property;

''(18) 'United States' means the States of the United States and the District of Columbia;

''(19) 'vessel' means a watercraft or other artificial contrivance that is used, is capable of being used, or is intended to be used, as a means of transportation by water; and

''(20) 'water carrier' means a person providing water transportation for compensation.

''§ 13103. Remedies are cumulative

''Except as otherwise provided in this part, the remedies provided under this part are in addition to remedies existing under another law or at common law.

''CHAPTER 133—ADMINISTRATIVE PROVISIONS

''§ 13301. Powers

''(a) Except as otherwise specified, the Secretary of Transportation shall carry out this part. Enumeration of a power of the Secretary in this part does not exclude another power the Secretary may have in carrying out this part. The Secretary may prescribe regulations in carrying out this part.

''(b) The Secretary may obtain from carriers providing, and brokers for, transportation and service subject to this part, and from persons controlling, controlled by, or under common control with those carriers or brokers to the extent that the business of that person is related to the management of the business of that carrier or broker, information the Secretary decides is necessary to carry out this part.

''(c)(1) The Secretary may subpena witnesses and records related to a proceeding under this part from any place in the United States, to the designated place of the proceeding. If a witness disobeys a subpena, the Secretary, or a party to a proceeding under this part, may petition a court of the United States to enforce that subpena.

''(2) The district courts of the United States have jurisdiction to enforce a subpena issued under this section. Trial is in the district in which the proceeding is conducted. The court may punish a refusal to obey a subpena as a contempt of court.

''(d)(1) In a proceeding under this part, the Secretary may take the testimony of a witness by deposition and may order the witness to produce records. A party to a proceeding pending under this part may take the testimony of a witness by deposition and may require the witness to produce records at any time after a proceeding is at issue on petition and answer.

''(2) If a witness fails to be deposed or to produce records under paragraph (1) of this subsection, the Secretary may subpena the witness to take a deposition, produce the records, or both.

''(3) A deposition may be taken before a judge of a court of the United States, a United States magistrate judge, a clerk of a district court, or a chancellor, justice, or judge of a supreme or superior court, mayor or chief magistrate of a city, judge of a county court, or court of common pleas of any State, or a notary public who is not counsel or attorney of a party or interested in the proceeding.

''(4) Before taking a deposition, reasonable notice must be given in writing by the party or the attorney of that party proposing to take a deposition to the opposing party or the attorney of record of that party, whoever is nearest. The notice shall state the name of the witness and the time and place of taking the deposition.

''(5) The testimony of a person deposed under this subsection shall be taken under oath. The person taking the deposition shall prepare, or cause to be prepared, a transcript of the testimony taken. The transcript shall be subscribed by the deponent.

''(6) The testimony of a witness who is in a foreign country may be taken by deposition before an officer or person designated by the Secretary or agreed on by the parties by written stipulation filed with the Secretary. A deposition shall be filed with the Secretary promptly.

''(e) Each witness summoned before the Secretary or whose deposition is taken under this section and the individual taking the deposition are entitled to the same fees and mileage paid for those services in the courts of the United States.

''(f) For those provisions of this part that are specified to be carried out by the Intermodal Surface Transportation Board, the Transportation Board shall have the same powers as the Secretary has under this section.

''§ 13302. Intervention

''Under regulations of the Secretary of Transportation, reasonable notice of, and an opportunity to intervene and participate in, a proceeding under this part related to transportation subject to jurisdiction under subchapter I of chapter 135 of this title shall be given to interested persons.

''§ 13303. Service of notice in proceedings under this part

''(a) A motor carrier, a broker, or a freight forwarder providing transportation or service subject to jurisdiction under chapter 135 of this title shall designate in writing an agent by name and post office address on whom service of notices in a proceeding before, and of actions of, the Secretary may be made.

''(b) A notice to a motor carrier, broker, or freight forwarder is served personally or by mail on the motor carrier, broker, or freight forwarder or on its designated agent. Service by mail on the designated agent is made at the address filed for the agent. When notice is given by mail, the date of mailing is considered to be the time when the notice is served. If a motor carrier, broker, or freight forwarder does not have a designated agent, service may be made by posting a copy of the notice at the headquarters of the Department of Transportation.

''§ 13304. Service of process in court proceedings

''(a) A motor carrier or broker providing transportation subject to jurisdiction under chapter 135 of this title, including a motor carrier or broker operating within the United States while providing transportation between places in a foreign country or between a place in one foreign country and a place in another foreign country, shall designate an agent in each State in which it operates by name and post office address on whom process issued by a court with subject matter jurisdiction may be served in an action brought against that carrier or broker. The designation shall be in writing and filed with the Department of Transportation and each State may require that an additional designation be filed with it. If a designation under this subsection is not made, service may be made on any agent of the carrier or broker within that State.

''(b) A designation under this section may be changed at any time in the same manner as originally made.

''CHAPTER 135—JURISDICTION

''SUBCHAPTER I—MOTOR CARRIER TRANSPORTATION

''§ 13501. General jurisdiction

''The Secretary of Transportation and the Intermodal Surface Transportation Board have jurisdiction, as specified in this part, over transportation by motor carrier and the procurement of that transportation, to the extent that passengers, property, or both, are transported by motor carrier—

''(1) between a place in—

''(A) a State and a place in another State;

''(B) a State and another place in the same State through another State;

''(C) the United States and a place in a territory or possession of the United States to the extent the transportation is in the United States;

''(D) the United States and another place in the United States through a foreign country to the extent the transportation is in the United States; or

''(E) the United States and a place in a foreign country to the extent the transportation is in the United States; and

''(2) in a reservation under the exclusive jurisdiction of the United States or on a public highway.

''§ 13502. Exempt transportation between Alaska and other States

''To the extent that transportation by a motor carrier between a place in Alaska and a place in another State under section 13501 of this title is provided in a foreign country—

''(1) neither the Secretary of Transportation nor the Intermodal Surface Transportation Board has jurisdiction to impose a requirement over conduct of the motor carrier in the foreign country conflicting with a requirement of that country; but

''(2) the motor carrier, as a condition of providing transportation in the United States, shall comply, with respect to all transportation provided between Alaska and the other State, with the requirements of this part related to rates and practices applicable to the transportation.

''§ 13503. Exempt motor vehicle transportation in terminal areas

''(a)(1) Neither the Secretary of Transportation nor the Intermodal Surface Transportation Board has jurisdiction under this subchapter over transportation by motor vehicle provided in a terminal area when the transportation—

''(A) is a transfer, collection, or delivery;

''(B) is provided by—

''(i) a rail carrier subject to jurisdiction under chapter 105 of this title;

''(ii) a water carrier subject to jurisdiction under subchapter II of this chapter; or

''(iii) a freight forwarder subject to jurisdiction under subchapter III of this chapter; and

''(C) is incidental to transportation or service provided by the carrier or freight forwarder that is subject to jurisdiction under chapter 105 of this title or under subchapter II or III of this chapter.

''(2) Transportation exempt from jurisdiction under paragraph (1) of this subsection is subject to jurisdiction under chapter 105 of this title when provided by such a rail carrier, under subchapter II of this chapter when provided by such a water carrier, and under subchapter III of this chapter when provided by such a freight forwarder.

''(b)(1) Except to the extent provided by paragraph (2) of this subsection, neither the Secretary nor the Transportation Board has jurisdiction under this subchapter over transportation by motor vehicle provided in a terminal area when the transportation—

''(A) is a transfer, collection, or delivery; and

''(B) is provided by a person as an agent or under other arrangement for—

''(i) a rail carrier subject to jurisdiction under chapter 105 of this title;

''(ii) a motor carrier subject to jurisdiction under this subchapter;

''(iii) a water carrier subject to jurisdiction under subchapter II of this chapter; or

''(iv) a freight forwarder subject to jurisdiction under subchapter III of this chapter.

''(2) Transportation exempt from jurisdiction under paragraph (1) of this subsection is considered transportation provided by the carrier or service provided by the freight forwarder for whom the transportation was provided and is subject to jurisdiction under chapter 105 of this title when provided for such a rail carrier, under this subchapter when provided for such a motor carrier, under subchapter II of this chapter when provided for such a water carrier, and under subchapter III of this chapter when provided for such a freight forwarder.

''§ 13504. Exempt motor carrier transportation entirely in one State

''Neither the Secretary of Transportation nor the Intermodal Surface Transportation Board has jurisdiction under this subchapter over transportation, except transportation of household goods, by a motor carrier operating solely within the State of Hawaii. The State of Hawaii may regulate transportation exempt from jurisdiction under this section and, to the extent provided by a motor carrier operating solely within the State of Hawaii, transportation exempt under section 13503 of this title.

''SUBCHAPTER II—WATER CARRIER TRANSPORTATION

''§ 13521. General jurisdiction

''(a) GENERAL RULES.—The Transportation Board has jurisdiction over transportation insofar as water carriers are concerned—

''(1) by water carrier between a place in a State and a place in another State, even if part of the transportation is outside the United States;

''(2) by water carrier and motor carrier from a place in a State to a place in another State, except that if part of the transportation is outside the United States, the Secretary only has jurisdiction over that part of the transportation provided—

''(A) by motor carrier that is in the United States; and

''(B) by water carrier that is from a place in the United States to another place in the United States; and

''(3) by water carrier or by water carrier and motor carrier between a place in the United States and a place outside the United States, to the extent that—

''(A) when the transportation is by motor carrier, the transportation is provided in the United States;

''(B) when the transportation is by water carrier to a place outside the United States, the transportation is provided by water carrier from a place in the United States to another place in the United States before transshipment from a place in the United States to a place outside the United States; and

''(C) when the transportation is by water carrier from a place outside the United States, the transportation is provided by water carrier from a place in the United States to another place in the United States after transshipment to a place in the United States from a place outside the United States.

''(b) DEFINITIONS.—In this section, the terms 'State' and 'United States' include the territories, commonwealths, and possessions of the United States.

''SUBCHAPTER III—FREIGHT FORWARDER SERVICE

''§ 13531. General jurisdiction

''(a) The Secretary of Transportation and the Intermodal Surface Transportation Board have jurisdiction, as specified in this part, over service that a freight forwarder undertakes to provide, or is authorized or required under this part to provide, to the extent transportation is provided in the United States and is between—

''(1) a place in a State and a place in another State, even if part of the transportation is outside the United States;

''(2) a place in a State and another place in the same State through a place outside the State; or

''(3) a place in the United States and a place outside the United States.

''(b) Neither the Secretary nor the Transportation Board has jurisdiction under subsection (a) of this section over service undertaken by a freight forwarder using transportation of an air carrier subject to part A of subtitle VII of this title.

''SUBCHAPTER IV—AUTHORITY TO EXEMPT

''§ 13541. Authority to exempt transportation or services

''(a) In any matter subject to jurisdiction under this chapter, the Secretary of Transportation or the Intermodal Surface Transportation Board, as applicable, shall exempt a person, class of persons, or a transaction or service from the application of a provision of this title, or use this exemption authority to modify a provision of this title, when the Secretary or Transportation Board finds that the application of that provision in whole or in part—

''(1) is not necessary to carry out the transportation policy of section 13101 of this title; and

''(2) either (A) the transaction or service is of limited scope, or (B) the application of a provision of this title is not needed to protect shippers from the abuse of market power.

In a proceeding that affects the transportation of household goods described in section 13102(9)(A), the Secretary or the Transportation Board shall also consider whether the exemption will be consistent with the transportation policy set forth in section 13101 of this title and will not be detrimental to the interests of individual shippers.

''(b) The Secretary or Transportation Board, as applicable, may, where appropriate, begin a proceeding under this section on the Secretary's or Transportation Board's own initiative or on application by an interested party.

''(c) The Secretary or Transportation Board, as applicable, may specify the period of time during which an exemption granted under this section is effective.

''(d) The Secretary or Transportation Board, as applicable, may revoke an exemption, to the extent specified, on finding that application of a provision of this title to the person, class, or transportation is necessary to carry out the transportation policy of section 13101 of this title.

''(e) This exemption authority may not be used to relieve a person (except a person that would have been covered by a statutory exemption under subchapter II or IV of chapter 105 of this title that was repealed by the Interstate Commerce Commission Sunset Act of 1995) from the application of, and compliance with, any law, rule, regulation, standard, or order pertaining to cargo loss and damage; insurance; or safety fitness.

''(f) The Secretary or Transportation Board, as applicable, is prohibited from regulating or exercising jurisdiction over the transportation by water carrier in the non-contiguous domestic trade of any cargo or type of cargo or service which was not subject to regulation by, or under the jurisdiction of, either the Federal Maritime Commission or Interstate Commerce Commission under Federal law in effect on November 1, 1995.

''(g) The Secretary or Transportation Board, as applicable, may not exempt a water carrier from the application of, or compliance with, sections 13801 and 13702 for transportation in the non-contiguous domestic trade.

''CHAPTER 137—RATES AND THROUGH ROUTES

''§ 13701. Requirements for reasonable rates, classifications, through routes, rules, and practices for certain transportation

''(a)(1) A rate, classification, rule, or practice related to transportation or service provided by a carrier subject to jurisdiction under subchapters I or III of chapter 135 of this title for transportation or service involving—

''(i) a movement of household goods described in section 13102(9)(A) of this title, or

''(ii) a joint rate for a through movement with a water carrier, or a rate for a movement by a water carrier, in non-contiguous domestic trade, must be reasonable.

''(2) Through routes and divisions of joint rates for such transportation or service as described in paragraph (1) (i) or (ii) must be reasonable.

''(b) When the Intermodal Surface Transportation Board finds it necessary to stop or prevent a violation of subsection (a), the Transportation Board shall prescribe the rate, classification, rule, practice, through route, or division of joint rates to be applied for such transportation or service.

''(c) A complaint that a rate, classification, rule or practice in the non-contiguous domestic trade violates subsection (a) of this section may be filed with the Transportation Board.

''(d)(1) For purposes of this section, a rate or division of a carrier for service in non-contiguous domestic trade is reasonable if the aggregate of increases and decreases in any such rate or division is not more than 7.5 percent above, or more than 10 percent below, the rate or division in effect 1 year before the effective date of the proposed rate or division.

''(2) The percentage specified in paragraph (1) shall be increased or decreased, as the case may be, by the percentage change in the Producers Price Index, as published by the Department of Labor, that has occurred during the most recent 1-year period before the date the rate or division in question first took effect.

''(3) The Transportation Board shall determine whether any rate or division of a carrier or service in the non-contiguous domestic trade which is not within the range described in paragraph (1) is reasonable if a complaint is filed under subsection (c) of this section or section 13702(f)(5).

''(4) The Transportation Board, upon a finding of violation of subsection (a) or this section, shall award reparations to the complaining shipper or shippers in an amount equal to all sums assessed and collected that exceed the determined reasonable rate, division, rate structure or tariff. The Transportation Board, upon complaint from any governmental agency or authority, shall, upon a finding or violation of subsection (a) of this section, make such orders as are just and shall require the carrier to return, to the extent practicable, to shippers all sums, plus interest, which the Board finds to have been assessed and collected in violation of such subsections.

''(e) Any proceeding with respect to any tariff, rate charge, classification, rule, regulation or service that was pending before the Federal Maritime Commission shall continue to be heard until completion or issuance of a final order thereon under all applicable laws in effect as of that date.

''§ 13702. Tariff requirement for certain transportation

''(a) A carrier subject to jurisdiction under subchapters I or III of chapter 135 of this title may provide transportation or service that is—

''(1) under a joint rate for a through movement in non-contiguous domestic trade, or

''(2) for movement of household goods described in section 13102(9)(A) of this title,

only if the rate for such transportation or service is contained in a tariff that is in effect under this section. A rate contained in a tariff shall be stated in money of the United States. The carrier may not charge or receive a different compensation for that transportation or service than the rate specified in the tariff whether by returning a part of that rate to a person, giving a person a privilege, allowing the use of a facility that affects the value of that transportation or service, or another device.

''(b)(1) A carrier providing transportation or service described in paragraph (1) of subsection (a) shall publish and file with the Intermodal Surface Transportation Board tariffs containing the rates established for such transportation or service. The Transportation Board may prescribe other information that carriers shall include in such tariffs.

''(2) Carriers that publish tariffs under this subsection shall keep them open for public inspection.

''(c) The Transportation Board shall prescribe the form and manner of publishing, filing, and keeping tariffs open for public inspection under subsection (b). The Transportation Board may prescribe specific charges to be identified in a tariff published by a carrier, but those tariffs must identify plainly—

''(1) the carriers that are parties to it;

''(2) the places between which property will be transported;

''(3) terminal charges if a carrier providing transportation or service subject to jurisdiction under subchapter III of chapter 135 of this title;

''(4) privileges given and facilities allowed; and

''(5) any rules that change, affect, or determine any part of the published rate.

''(d) The Transportation Board may permit carriers to change rates, classifications, rules, and practices without filing complete tariffs that cover matter that is not being changed when the Transportation Board finds that action to be consistent with the public interest. Those carriers may either—

''(1) publish new tariffs that incorporate changes, or

''(2) plainly indicate the proposed changes in the tariffs then in effect and kept open for public inspection.

''(e) The Transportation Board may reject a tariff submitted to it by a carrier under subsection (b) if that tariff violates this section or regulation of the Transportation Board carrying out this section.

''(f)(1) A carrier providing transportation described in subsection (a)(2) shall maintain rates and related rules and practices in a published tariff. The tariff must be available for inspection by the Transportation Board and by shippers, upon reasonable request, at the offices of the carrier and of each tariff publishing agent of the carrier.

''(2) A carrier that maintains a tariff and makes it available for inspection as provided in paragraph (1) may not enforce the provisions of the tariff unless the carrier has given notice that the tariff is available for inspection in its bill of lading or by other actual notice to individuals whose shipments are subject to the tariff.

''(3) A carrier that maintains a tariff under this subsection is bound by the tariff except as otherwise provided in this subtitle. A carrier that does not maintain a tariff as provided in this subsection may not enforce the tariff against any individual shipper except as otherwise provided in this subtitle, and shall not transport household goods described in section 13102(9)(A).

''(4) A carrier may incorporate by reference the rates, terms, and other conditions in a tariff in agreements covering the transportation of household goods (except those household goods described in section 13102(9)(A)(i)), if the tariff is maintained as provided in this subsection and the agreement gives notice of the incorporation and of the availability of the tariff for inspection by the commercial shipper.

''(5) A complaint that a rate or related rule or practice maintained in a tariff under this subsection violates section 13701(a) may be filed with the Transportation Board.

''§ 13703. Certain collective activities; exemption from antitrust laws

''(a) AGREEMENTS.—

''(1) AUTHORITY TO ENTER.—A motor carrier providing transportation or service subject to jurisdiction under chapter 135 may enter into an agreement with one or more such carriers to establish—

''(A) through routes and joint rates;

''(B) rates for the transportation of household goods described in section 13102(9)(A);

''(C) classifications;

''(D) mileage guides;

''(E) rules;

''(F) divisions;

''(G) rate adjustments of general application based on industry average carrier costs (so long as there is no discussion of individual markets or particular single-line rates); or

''(H) procedures for joint consideration, initiation, or establishment of matters described in subparagraphs (A) through (G).

''(2) SUBMISSION OF AGREEMENT TO TRANSPORTATION BOARD; APPROVAL.—An agreement entered into under subsection (a) may be submitted by any carrier or carriers that are parties to such agreement to the Transportation Board for approval and may be approved by the Transportation Board only if it finds that such agreement is in the public interest.

''(3) CONDITIONS.—The Transportation Board may require compliance with reasonable conditions consistent with this part to assure that the agreement furthers the transportation policy set forth in section 13101.

''(4) INVESTIGATIONS.—The Transportation Board may suspend and investigate the reasonableness of any classification or rate adjustment of general application made pursuant to an agreement under this section.

''(5) EFFECT OF APPROVAL.—If the Transportation Board approves the agreement or renews approval of the agreement, it may be made and carried out under its terms and under the conditions required by the Transportation Board, and the antitrust laws, as defined in the first section of the Clayton Act (15 U.S.C. 12), do not apply to parties and other persons with respect to making or carrying out the agreement.

''(b) RECORDS.—The Transportation Board may require an organization established or continued under an agreement approved under this section to maintain records and submit reports. The Transportation Board, or its delegate, may inspect a record maintained under this section, or monitor any organization's compliance with this section.

''(c) REVIEW.—The Transportation Board may review an agreement approved under this section, on its own initiative or on request, and shall change the conditions of approval or terminate it when necessary to protect the public interest. Action of the Transportation Board under this section—

''(1) approving an agreement,

''(2) denying, ending, or changing approval,

''(3) prescribing the conditions on which approval is granted, or

''(4) changing those conditions,

has effect only as related to application of the antitrust laws referred to in subsection (a).

''(d) EXPIRATION OF APPROVALS; RENEWALS.—Subject to subsection (c), approval of an agreement under subsection (a) shall expire 3 years after the date of approval unless renewed under this subsection. The approval may be renewed upon request of the parties to the agreement if such parties resubmit the agreement to the Transportation Board, the agreement is unchanged, and the Transportation Board approves such renewal. The Transportation Board shall approve the renewal unless it finds that the renewal is not in the public interest.

''(e) EXISTING AGREEMENTS.—Agreements approved under former section 10706(b) and in effect on the day before the effective date of this section shall be treated for purposes of this section as approved by the Transportation Board under this section beginning on such effective date.

''(f) LIMITATIONS ON STATUTORY CONSTRUCTION.—

''(1) UNDERCHARGE CLAIMS.—Nothing in this section shall serve as a basis for any undercharge claim.

''(2) OBLIGATION OF SHIPPER.—Nothing in this title, the Interstate Commerce Commission Sunset Act of 1995, or any amendments or repeals made by such Act shall be construed as creating any obligation for a shipper based solely on a classification that was on file with the Interstate Commerce Commission or elsewhere on the day before the effective date of this section.

''(g) MILEAGE RATE LIMITATION.—No carrier subject to jurisdiction under subchapter I or III of chapter 135 of this title may enforce collection of its mileage rates or classifications unless such carrier or forwarder maintains its own independent publication of mileage or classification which can be examined by any interested person upon reasonable request or is a participant in a publication of mileages or classifications formulated under an agreement approved under this section.

''(h) SINGLE LINE RATE DEFINED.—In this section, the term 'single line rate' means a rate, charge, or allowance proposed by a single motor carrier that is applicable only over its line and for which the transportation can be provided by that carrier.

''§ 13704. Household goods rates—estimates; guarantees of service

''(a)(1) Subject to the provisions of paragraph (2) of this subsection, a motor carrier providing transportation of household goods subject to jurisdiction under subchapter I of chapter 135 of this title may establish a rate for the transportation of household goods which is based on the carrier's written, binding estimate of charges for providing such transportation.

''(2) Any rate established under this subsection must be available on a nonpreferential basis to shippers and must not result in charges to shippers which are predatory.

''(b)(1) Subject to the provisions of paragraph (2) of this subsection, a motor carrier providing transportation of household goods subject to jurisdiction under subchapter I of chapter 135 of this title may establish rates for the transportation of household goods which guarantee that the carrier will pick up and deliver such household goods at the times specified in the contract for such services and provide a penalty or per diem payment in the event the carrier fails to pick up or deliver such household goods at the specified time. The charges, if any, for such guarantee and penalty provision may vary to reflect one or more options available to meet a particular shipper's needs.

''(2) Before a carrier may establish a rate for any service under paragraph (1) of this subsection, the Secretary of Transportation may require such carrier to have in effect and keep in effect, during any period such rate is in effect under such paragraph, a rate for such service which does not guarantee the pick up and delivery of household goods at the times specified in the contract for such services and which does not provide a penalty or per diem payment in the event the carrier fails to pick up or deliver household goods at the specified time.

''§ 13705. Requirements for through routes among motor carriers of passengers

''(a) A motor carrier of passengers shall establish through routes with other carriers of the same type and shall establish individual and joint rates applicable to them.

''(b) A through route between motor carriers providing transportation of passengers subject to jurisdiction under subchapter I of chapter 135 must be reasonable.

''(c) When the Intermodal Surface Transportation Board finds it necessary to enforce the requirements of this section, the Transportation Board may prescribe through routes and the conditions under which those routes must be operated for motor carriers providing transportation of passengers subject to jurisdiction under subchapter I of chapter 135.

''§ 13706. Liability for payment of rates

''(a) Liability for payment of rates for transportation for a shipment of property by a shipper or consignor to a consignee other than the shipper or consignor, is determined under this section when the transportation is provided by motor carrier under this part. When the shipper or consignor instructs the carrier transporting the property to deliver it to a consignee that is an agent only, not having beneficial title to the property, the consignee is liable for rates billed at the time of delivery for which the consignee is otherwise liable, but not for additional rates that may be found to be due after delivery if the consignee gives written notice to the delivering carrier before delivery of the property—

''(1) of the agency and absence of beneficial title; and

''(2) of the name and address of the beneficial owner of the property if it is reconsigned or diverted to a place other than the place specified in the original bill of lading.

''(b) When the consignee is liable only for rates billed at the time of delivery under subsection (a) of this section, the shipper or consignor, or, if the property is reconsigned or diverted, the beneficial owner is liable for those additional rates regardless of the bill of lading or contract under which the property was transported. The beneficial owner is liable for all rates when the property is reconsigned or diverted by an agent but is refused or abandoned at its ultimate destination if the agent gave the carrier in the reconsignment or diversion order a notice of agency and the name and address of

the beneficial owner. A consignee giving the carrier erroneous information about the identity of the beneficial owner of the property is liable for the additional rates.

"§ 13707. Billing and collecting practices

''(a) A motor carrier subject to jurisdiction under subchapter I of chapter 135 shall disclose, when a document is presented or electronically transmitted for payment to the person responsible directly to the motor carrier for payment or agent of such responsible person, the actual rates, charges, or allowances for any transportation service. No person may cause a motor carrier to present false or misleading information on a document about the actual rate, charge, or allowance to any party to the transaction. When the actual rate, charge, or allowance is dependent upon the performance of a service by a party to the transportation arrangement, such as tendering a volume of freight over a stated period of time, the motor carrier shall indicate in any document presented for payment to the person responsible directly to the motor carrier that a reduction, allowance, or other adjustment may apply.

''(b) The Transportation Board shall promulgate regulations that prohibit a motor carrier subject to jurisdiction under subchapter II of chapter 105 of this title from providing a reduction in a rate for the provision of transportation of property to any person other than—

''(1) the person paying the motor carrier directly for the transportation service according to the bill of lading, receipt, or contract; or

''(2) an agent of the person paying for the transportation.

"§ 13708. Procedures for resolving claims involving unfiled, negotiated transportation rates

''(a) IN GENERAL.—When a claim is made by a motor carrier of property (other than a household goods carrier) providing transportation subject to jurisdiction under subchapter II of chapter 105 of this title (as in effect on the day before the effective date of this section) or subchapter I of chapter 135 of this title, by a freight forwarder (other than a household goods freight forwarder), or by a party representing such a carrier or freight forwarder regarding the collection of rates or charges for such transportation in addition to those originally billed and collected by the carrier or freight forwarder for such transportation, the person against whom the claim is made may elect to satisfy the claim under the provisions of subsection (b), (c), or (d), upon showing that—

''(1) the carrier or freight forwarder is no longer transporting property or is transporting property for the purpose of avoiding the application of this section; and

''(2) with respect to the claim—

''(A) the person was offered a transportation rate by the carrier or freight forwarder other than that legally on file at the time with the Transportation Board or with the former Interstate Commerce Commission, as required, for the transportation service;

''(B) the person tendered freight to the carrier or freight forwarder in reasonable reliance upon the offered transportation rate;

''(C) the carrier or freight forwarder did not properly or timely file with the Transportation Board or with the former Interstate Commerce Commission, as required, a tariff providing for such transportation rate or failed to enter into an agreement for contract carriage;

''(D) such transportation rate was billed and collected by the carrier or freight forwarder; and

''(E) the carrier or freight forwarder demands additional payment of a higher rate filed in a tariff.

If there is a dispute as to the showing under paragraph (1), such dispute shall be resolved by the court in which the claim is brought. If there is a dispute as to the showing under paragraph (2), such dispute shall be resolved by the Intermodal Surface Transportation Board. Pending the resolution of any such dispute, the person shall not have to pay any additional compensation to the carrier or freight forwarder. Satisfaction of the claim under subsection (b), (c), or (d) shall be binding on the parties, and the parties shall not be subject to chapter 149 of this title or chapter 119 of this title, as such chapter was in effect on the date before the date of enactment of the Interstate Commerce Commission Sunset Act of 1995.

''(b) CLAIMS INVOLVING SHIPMENTS WEIGHING 10,000 POUNDS OR LESS.—A person from whom the additional legally applicable and effective tariff rate or charges are sought may elect to satisfy the claim if the shipments each weighed 10,000 pounds or less, by payment of 20 percent of the difference between the carrier's applicable and effective tariff rate and the rate originally billed and paid. In the event that a dispute arises as to the rate that was legally applicable to the shipment, such dispute shall be resolved by the Transportation Board .

''(c) CLAIMS INVOLVING SHIPMENTS WEIGHING MORE THAN 10,000 POUNDS.—A person from whom the additional legally applicable and effective tariff rate or charges are sought may elect to satisfy the claim if the shipments each weighed more than 10,000 pounds, by payment of 15 percent of the difference between the carrier's applicable and effective tariff rate and the rate originally billed and paid. In the event that a dispute arises as to the rate that was legally applicable to the shipment, such dispute shall be resolved by the Transportation Board.

''(d) CLAIMS INVOLVING PUBLIC WAREHOUSEMEN.—Notwithstanding subsections (b) and (c), a person from whom the additional legally applicable and effective tariff rate or charges are sought may elect to satisfy the claim by payment of 5 percent of the difference between the carrier's applicable and effective tariff rate and the rate originally billed and paid if such person is a public warehouseman. In the event that a dispute arises as to the rate that was legally applicable to the shipment, such dispute shall be resolved by the Transportation Board.

''(e) EFFECTS OF ELECTION.—When a person from whom additional legally applicable freight rates or charges are sought does not elect to use the provisions of subsection (b), (c) or (d), the person may pursue all rights and remedies existing under this part or, for transportation provided before the effective date of this section, all rights and remedies that existed under this title on the day before the date of enactment of the Interstate Commerce Commission Sunset Act of 1995.

''(f) STAY OF ADDITIONAL COMPENSATION.—When a person proceeds under this section to challenge the reasonableness of the legally applicable freight rate or charges being claimed by a carrier or freight forwarder described in subsection (a) in addition to those already billed and collected, the person shall not have to pay any additional compensation to the carrier or freight forwarder until the Transportation Board has made a determination as to the reasonableness of the challenged rate as applied to the freight of the person against whom the claim is made.

''(g) NOTIFICATION OF ELECTION.—

''(1) GENERAL RULE.—A person must notify the carrier or freight forwarder as to its election to proceed under subsection (b), (c), or (d). Except as provided in paragraphs (2), (3), and (4), such election may be made at any time.

''(2) DEMANDS FOR PAYMENT INITIALLY MADE AFTER DECEMBER 3, 1993.—If the carrier or freight forwarder or party representing such carrier or freight forwarder initially demands the payment of additional freight charges after December 3, 1993, and notifies the person from whom additional freight charges are sought of the provisions of subsections (a) through (f) at the time of the making of such initial demand, the election must be made not later than the later of—

''(A) the 60th day following the filing of an answer to a suit for the collection of such additional legally applicable freight rate or charges, or

''(B) March 5, 1994.

''(3) PENDING SUITS FOR COLLECTION MADE BEFORE DECEMBER 4, 1993.—If the carrier or freight forwarder or party representing such carrier or freight forwarder has filed, before December 4, 1993, a suit for the collection of additional freight charges and notifies the person from whom additional freight charges are sought of the provisions of subsections (a) through (f), the election must be made not later than the 90th day following the date on which such notification is received.

''(4) DEMANDS FOR PAYMENT MADE BEFORE DECEMBER 4, 1993.—If the carrier or freight forwarder or party representing such carrier or freight forwarder has demanded the payment of additional freight charges, and has not filed a suit for the collection of such additional freight charges, before December 4, 1993, and notifies the person from whom additional freight charges are sought of the provisions of subsections (a) through (f), the election must be made not later than the later of—

''(A) the 60th day following the filing of an answer to a suit for the collection of such additional legally applicable freight rate or charges, or

''(B) March 5, 1994.

''(h) CLAIMS INVOLVING SMALL-BUSINESS CONCERNS, CHARITABLE ORGANIZATIONS, AND RECYCLABLE MATERIALS.—Notwithstanding subsections (b), (c), and (d), a person from whom the additional legally applicable and effective tariff rate or charges are sought shall not be liable for the difference between the carrier's applicable and effective tariff rate and the rate originally billed and paid—

''(1) if such person qualifies as a small-business concern under the Small Business Act (15 U.S.C. 631 et seq.),

''(2) if such person is an organization which is described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from tax under section 501(a) of such Code, or

''(3) if the cargo involved in the claim is recyclable materials. In this provision, 'recyclable materials' means waste products for recycling or reuse in the furtherance of recognized pollution control programs.

"§ 13709. Additional motor carrier undercharge provisions

''(a)(1) A motor carrier of property (other than a motor carrier providing transportation in noncontiguous domestic trade) shall provide to the shipper, on request of the shipper, a written or electronic copy of the rate, classification, rules, and practices, upon which any rate agreed to between the shipper and carrier may have been based.

''(2) In those cases where a motor carrier (other than a motor carrier providing transportation of household goods or in noncontiguous domestic trade) seeks to collect charges in addition to those billed and collected which are contested by the payor, the carrier may request that the Transportation Board determine whether any additional charges over those billed and collected must be paid. A carrier must issue any bill for charges in addition to those originally billed within 180 days of the receipt of the original bill in order to have the right to collect such charges.

''(3) If a shipper seeks to contest the charges originally billed, the shipper may request that the Transportation Board determine whether the charges originally billed must be paid. A shipper must contest the original bill within 180 days in order to have the right to contest such charges.

''(4) Any tariff on file with the Interstate Commerce Commission on August 26, 1994, not required to be filed after that date is null and void beginning on that date. Any tariff on file

with the Interstate Commerce Commission on the effective date of the Interstate Commerce Commission Sunset Act of 1995 not required to be filed after that date is null and void beginning on that date.

''(b) If a motor carrier (other than a motor carrier providing transportation of household goods) subject to jurisdiction under subchapter I of chapter 135 of this title had authority to provide transportation as both a motor common carrier and a motor contract carrier and a dispute arises as to whether certain transportation that was provided prior to the effective date of the Interstate Commerce Commission Sunset Act of 1995 was provided in its common carrier or contract carrier capacity and the parties are not able to resolve the dispute consensually, the Transportation Board shall resolve the dispute.

''§ 13710. Alternative Procedure for Resolving Undercharge Disputes

''(a) GENERAL RULE.—It shall be an unreasonable practice for a motor carrier of property (other than a household goods carrier) providing transportation that is subject to jurisdiction of subchapter I of chapter 135 of this title or was subject to jurisdiction under subchapter II of chapter 105 of this title, a freight forwarder (other than a household goods freight forwarder), or a party representing such a carrier or freight forwarder to attempt to charge or to charge for a transportation service the difference between—

''(1) the applicable rate that was lawfully in effect pursuant to a tariff that was filed in accordance with this chapter, or with respect to transportation provided before the effective date of this section in accordance with chapter 107 of this title as in effect on the date the transportation service was provided by the carrier or freight forwarder applicable to such transportation service; and

''(2) the negotiated rate for such transportation service if the carrier or freight forwarder is no longer transporting property between places described in section 13501(1) of this title or is transporting property between places described in section 13501(1) of this title for the purpose of avoiding the application of this section.

''(b) JURISDICTION OF TRANSPORTATION BOARD.—The Intermodal Surface Transportation Board shall have jurisdiction to make a determination of whether or not attempting to charge or the charging of a rate by a motor carrier or freight forwarder or party representing a motor carrier or freight forwarder is an unreasonable practice under subsection (a). If the Transportation Board determines that attempting to charge or the charging of the rate is an unreasonable practice under subsection (a), the carrier, freight forwarder, or party may not collect the difference described in subsection (a) between the applicable rate and the negotiated rate for the transportation service. In making such determination, the Transportation Board shall consider—

''(1) whether the person was offered a transportation rate by the carrier or freight forwarder or party other than that legally on file with the Transportation Board or with the Interstate Commerce Commission, as required, at the time of the movement for the transportation service;

''(2) whether the person tendered freight to the carrier or freight forwarder in reasonable reliance upon the offered transportation rate;

''(3) whether the carrier or freight forwarder did not properly or timely file with the Transportation Board or with the Interstate Commerce Commission, as required, a tariff providing for such transportation rate or failed to enter into an agreement for contract carriage;

''(4) whether the transportation rate was billed and collected by the carrier or freight forwarder; and

''(5) whether the carrier or freight forwarder or party demands additional payment of a higher rate filed in a tariff.

''(c) STAY OF ADDITIONAL COMPENSATION.—When a person proceeds under this section to challenge the reasonableness of the practice of a motor carrier, freight forwarder, or party described in subsection (a) to attempt to charge or to charge the difference described in subsection (a) between the applicable rate and the negotiated rate for the transportation service in addition to those charges already billed and collected for the transportation service, the person shall not have to pay any additional compensation to the carrier, freight forwarder, or party until the Transportation Board has made a determination as to the reasonableness of the practice as applied to the freight of the person against whom the claim is made.

''(d) TREATMENT.—Subsection (a) is an exception to the requirements of section 13702, and for transportation prior to the effective date of the Interstate Commerce Commission Sunset Act of 1995, to the requirements of sections 10761(a) and 10762 of this title as in effect on the date before the date of enactment of the Interstate Commerce Commission Sunset Act of 1995, relating to a filed tariff rate and other general tariff requirements.

''(e) NONAPPLICABILITY OF NEGOTIATED RATE DISPUTE RESOLUTION PROCEDURE.—If a person elects to seek enforcement of subsection (a) with respect to a rate for a transportation or service, section 13708 of this part shall not apply to such rate.

''(f) DEFINITIONS.—For purposes of this section, the term 'negotiated rate' means a rate, charge, classification, or rule agreed upon by a motor carrier or freight forwarder and a shipper through negotiations pursuant to which no tariff was lawfully and timely filed and for which there is written evidence of such agreement.

''§ 13711. Government traffic

''A carrier providing transportation or service for the United States Government may transport property or individuals for the United States Government without charge or at a rate reduced from the applicable commercial rate. Section 3709 of the Revised Statutes (41 U.S.C. 5) does not apply when transportation for the United States Government can be obtained from a carrier lawfully operating in the area where the transportation would be provided.

''§ 13712. Food and grocery transportation

''(a) CERTAIN COMPENSATION PROHIBITED.—Notwithstanding any other provision of law, it shall not be unlawful for a seller of food and grocery products using a uniform zone delivered pricing system to compensate a customer who picks up purchased food and grocery products at the shipping point of the seller if such compensation is available to all customers of the seller on a nondiscriminatory basis and does not exceed the actual cost to the seller of delivery to such customer.

''(b) SENSE OF CONGRESS.—It is the sense of the Congress that any savings accruing to a customer by reason of compensation permitted by subsection (a) of this section should be passed on to the ultimate consumer.

''CHAPTER 139—REGISTRATION

''§ 13901. Requirement for registration

''A person may provide transportation or service subject to jurisdiction under subchapter I or III of chapter 135 of this title or be a broker for transportation subject to jurisdiction under subchapter I of that chapter, only if the person is currently registered under this chapter to provide the transportation or service.

''§ 13902. Registration of motor carriers

''(a)(1) Except as provided in this section, the Secretary of Transportation shall register a person to provide transportation subject to jurisdiction under subchapter I of chapter 135 of this title as a motor carrier if the Secretary finds that the person is willing and able to comply with—

''(A) this part, the applicable regulations of the Secretary and the Intermodal Surface Transportation Board, and any safety requirements imposed by the Secretary,

''(B) the safety fitness requirements established by the Secretary under section 31144 of this title, and

''(C) the minimum financial responsibility requirements established by the Secretary pursuant to sections 13906 and 31128 of this title.

''(2) The Secretary shall consider and, to the extent applicable, make findings on, any evidence demonstrating that the registrant is unable to comply with the requirements of subparagraph (A), (B), or (C) of paragraph (1).

''(3) The Secretary shall find any registrant as a motor carrier under this section to be unfit if the registrant does not meet the fitness requirements under paragraph (1) of this subsection and shall withhold registration.

''(4) The Secretary may hear a complaint from any person concerning a registration under this subsection only on the ground that the registrant fails or will fail to comply with this part, the applicable regulations of the Secretary and the Transportation Board, the safety requirements of the Secretary, or the safety fitness or minimum financial responsibility requirements of paragraph (1) of this subsection.

''(b) MOTOR CARRIERS OF PASSENGERS.—

''(1) REGISTRATION OF PRIVATE RECIPIENTS OF GOVERNMENT ASSISTANCE.—The Secretary shall register under subsection (a)(1) a private recipient of governmental assistance to provide special or charter transportation subject to jurisdiction under subchapter I of chapter 135 as a motor carrier of passengers if the Secretary finds that the recipient meets the requirements of subsection (a)(1), unless the Secretary finds, on the basis of evidence presented by any person objecting to the registration, that the transportation to be provided pursuant to the registration is not in the public interest.

''(2) REGISTRATION OF PUBLIC RECIPIENTS OF GOVERNMENTAL ASSISTANCE.—

''(A) CHARTER TRANSPORTATION.—The Secretary shall register under subsection (a)(1) a public recipient of governmental assistance to provide special or charter transportation subject to jurisdiction under subchapter I of chapter 135 as a motor carrier of passengers if the Secretary finds that—

''(i) the recipient meets the requirements of subsection (a)(1); and

''(ii)(I) no motor carrier of passengers (other than a motor carrier of passengers which is a public recipient of governmental assistance) is providing, or is willing to provide, the transportation; or

''(II) the transportation is to be provided entirely in the area in which the public recipient provides regularly scheduled mass transportation services.

''(B) REGULAR-ROUTE TRANSPORTATION.—The Secretary shall register under subsection (a)(1) a public recipient of governmental assistance to provide regular-route transportation subject to jurisdiction under subchapter I of chapter 135 as a motor carrier of passengers if the Secretary finds that the recipient meets the requirements of subsection (a)(1), unless the Secretary finds, on the basis of evidence presented by any person objecting to the registration, that the transportation to be provided pursuant to the registration is not in the public interest.

''(C) TREATMENT OF CERTAIN PUBLIC RECIPIENTS.—Any public recipient of governmental assistance which is providing or seeking to provide transportation of passengers subject to jurisdiction under subchapter I of chapter 135 shall, for purposes of this part, be treated as a person which is providing or seeking to provide transportation of passengers subject to such jurisdiction.

''(3) INTRASTATE TRANSPORTATION BY INTERSTATE CARRIERS.—A motor carrier of passengers that is registered by the Secretary under subsection (a) is authorized to provide regular-route transportation entirely in one State as a motor carrier of passengers if such intrastate transportation is to be provided on a route over which

the carrier provides interstate transportation of passengers.

''(4) JURISDICTION OVER CERTAIN INTRASTATE TRANSPORTATION.—Any intrastate transportation authorized under this subsection, except as provided in section 14501, shall be deemed to be transportation subject to jurisdiction under subchapter I of chapter 135 of this title until such time, not later than 30 days after the date on which a motor carrier of passengers first begins providing transportation entirely in one State pursuant to this paragraph, as the carrier takes such action as is necessary to establish under the laws of such State rates, rules, and practices applicable to such transportation.

''(5) SPECIAL OPERATIONS.—This subsection shall not apply to any regular-route transportation of passengers provided entirely in one State which is in the nature of a special operation.

''(6) REVOCATION OF AUTHORITY FOR INTRASTATE TRANSPORTATION.—Notwithstanding paragraph (3) of this subsection, intrastate transportation authorized under this subsection may be suspended or revoked by the Secretary under section 13905 of this title at any time.

''(7) PREEMPTION OF STATE REGULATION.—No State or political subdivision thereof and no interstate agency or other political agency of two or more States shall enact or enforce any law, rule, regulation, standard or other provision having the force and effect of law relating to the provision of pickup and delivery of express packages, newspapers, or mail in a commercial zone if the shipment has had or will have a prior or subsequent movement by bus in intrastate commerce and, if a city within the commercial zone, is served by a motor carrier of passengers providing regular-route transportation of passengers subject to jurisdiction under subchapter I of chapter 135 of this title.

''(8) DEFINITIONS.—In this subsection, the following definitions apply:

''(A) PUBLIC RECIPIENT OF GOVERNMENTAL ASSISTANCE.—The term 'public recipient of governmental assistance' means—

''(i) any State,

''(ii) any municipality or other political subdivision of a State,

''(iii) any public agency or instrumentality of one or more states and municipalities and political subdivisions of a State,

''(iv) any Indian tribe,

''(v) any corporation, board, or other person owned or controlled by any entity described in clause (i), (ii), (iii), or (iv), and

which, before, on, or after the effective date of this subsection received governmental assistance for the purchase or operation of any bus.

''(B) PRIVATE RECIPIENT OF GOVERNMENT ASSISTANCE.—The term 'private recipient of government assistance' means any person (other than a person described in subparagraph (A)) who before, on or after the effective date of this paragraph received governmental financial assistance in the form of a subsidy for the purchase, lease, or operation of any bus.

''(c) RESTRICTIONS ON MOTOR CARRIERS DOMICILED IN OR OWNED OR CONTROLLED BY NATIONALS OF A CONTIGUOUS FOREIGN COUNTRY.—

''(1) If the President of the United States, or his or her delegate, determines that an act, policy, or practice of a foreign country contiguous to the United States, or any political subdivision or any instrumentality of any such country is unreasonable or discriminatory and burdens or restricts United States transportation companies providing, or seeking to provide, motor carrier transportation of property or passengers to, from, or within such foreign country, the President, or his or her delegate, may—

''(A) seek elimination of such practices through consultations; or

''(B) notwithstanding any other provision of law, suspend, modify, amend, condition, or restrict operations, including geographical restriction of operations, in the United States by motor carriers of property or passengers domiciled in such foreign country or owned or controlled by persons of such foreign country.

''(2) Any action taken under paragraph (1)(A) to eliminate an act, policy, or practice shall be so devised so as to equal to the extent possible the burdens or restrictions imposed by such foreign country on United States transportation companies.

''(3) The President, or his or her delegate, may remove or modify in whole or in part any action taken under paragraph (1)(A) if the President, or his or her delegate, determines that such removal or modification is consistent with the obligations of the United States under a trade agreement or with United States transportation policy.

''(4) Unless and until the President or his or her delegate makes a determination under paragraphs (1) or (3) above, nothing in this subsection shall affect—

''(A) operations of motor carriers of property or passengers domiciled in any contiguous foreign country or owned or controlled by persons of any contiguous foreign country permitted in the commercial zones along the U.S.-Mexico border as defined at the time of enactment of the Interstate Commerce Commission Sunset Act of 1995; or

''(B) any existing restrictions on operations of motor carriers of property or passengers domiciled in any contiguous foreign country or owned or controlled by persons of any contiguous foreign country or any modifications thereof pursuant to section 6 of the Bus Regulatory Reform Act of 1982.

''(5) Unless the President, or his or her delegate, determines that expeditious action is required, the President shall publish in the Federal Register any determination under paragraphs (1) or (3) together with a description of the facts on which such a determination is based and any proposed action to be taken pursuant to paragraphs (1)(B) or (3) and provide an opportunity for public comments.

''(6) The President may delegate any or all authority under this subsection to the Secretary of Transportation, who shall consult with other agencies as appropriate. In accordance with the directions of the President, the Secretary of Transportation may issue regulations to enforce this subsection.

''(7) Either the Secretary of Transportation or the Attorney General may bring a civil action in an appropriate district court of the United States to enforce this subsection or a regulation prescribed or order issued under this subsection. The court may award appropriate relief, including injunctive relief.

''(8) This subsection shall not affect the requirement for all foreign motor carriers and foreign motor private carriers operating in the United States to fully comply with all applicable laws and regulations pertaining to fitness; safety of operations; financial responsibility; and taxes imposed by section 4481 of the Internal Revenue Code of 1994.

''§ 13903. Registration of freight forwarders

''(a) The Secretary of Transportation shall register a person to provide service subject to jurisdiction under subchapter III of chapter 135 as a freight forwarder, if the Secretary finds that the person is fit, willing, and able to provide the service and to comply with this part and applicable regulations of the Secretary and the Intermodal Surface Transportation Board.

''(b) The freight forwarder may provide transportation as the carrier itself only if the freight forwarder also has been registered to provide transportation as a carrier under this chapter.

''§ 13904. Registration of motor carrier brokers

''(a) The Secretary of Transportation shall register, subject to section 13906(b) of this title, a person to be a broker for transportation of property subject to jurisdiction under subchapter I of chapter 135 of this title, if the Secretary finds that the person is fit, willing, and able to be a broker for transportation and to comply with this part and applicable regulations of the Secretary .

''(b)(1) The broker may provide the transportation itself only if the broker also has been registered to provide the transportation under this chapter.

''(2) This subsection does not apply to a motor carrier registered under this chapter or to an employee or agent of the motor carrier to the extent the transportation is to be provided entirely by the motor carrier, with other registered motor carriers, or with rail or water carriers.

''(c) Regulations of the Secretary shall provide for the protection of shippers by motor vehicle, to be observed by brokers.

''(d) The Secretary may impose on brokers for motor carriers of passengers such requirements for bonds or insurance or both as the Secretary determines are needed to protect passengers and carriers dealing with such brokers.

''§ 13905. Effective periods of registration

''(a) Each registration under section 13902, 13903, or 13904 of this title is effective from the date specified by the Secretary of Transportation and remains in effect for a period of 5 years except as otherwise provided in this section or in section 13906. The Secretary may require any carrier or registrant to provide periodic updating of carrier information.

''(b) On application of the holder, the Secretary may amend or revoke a registration. On complaint or on the Secretary's own initiative and after notice and an opportunity for a proceeding, the Secretary may suspend, amend, or revoke any part of the registration of a motor carrier, broker, or freight forwarder for willful failure to comply with this part, an applicable regulation or order of the Secretary or of the Intermodal Surface Transportation Board, or a condition of its registration.

''(c)(1) Except on application of the holder, the Secretary may revoke a registration of a motor carrier, freight forwarder, or broker, only after the Secretary has issued an order to the holder under section 14701 of this title requiring compliance with this part, a regulation of the Secretary, or a condition of the registration of the holder, and the holder willfully does not comply with the order.

''(2) The Secretary may act under paragraph (1) of this subsection only after giving the holder of the registration at least 30 days to comply with the order.

''(d)(1) Without regard to subchapter II of chapter 5 of title 5, the Secretary may suspend the registration of a motor carrier, a freight forwarder, or a broker for failure to comply with safety requirements of the Secretary or the safety fitness requirements pursuant to section 13904(c), 13906, or 31144, of this title, or an order or regulation of the Secretary prescribed under those sections.

''(2) Without regard to subchapter II of chapter 5 of title 5, the Secretary may suspend a registration of a motor carrier of passengers if the Secretary finds that such carrier is conducting unsafe operations which are an imminent hazard to public health or property.

''(3) The Secretary may suspend the registration only after giving notice of the suspension to the holder. The suspension remains in effect until the holder complies with those applicable sections or, in the case of a suspension under paragraph (2) of this subsection, until the Secretary revokes such suspension.

''§ 13906. Security of motor carriers, brokers, and freight forwarders

''(a)(1) The Secretary of Transportation may register a motor carrier under section 13902 only if the registering carrier (including a foreign motor carrier, and a foreign motor private carrier) files with the Secretary a bond, insurance policy, or other type of security approved by the Secretary, in an amount not less than such amount as the Secretary prescribes pursuant to, or as is required by, sections 31138 and 31139 of

this title, and the laws of the State or States in which the carrier is operating, to the extent applicable. The security must be sufficient to pay, not more than the amount of the security, for each final judgment against the carrier for bodily injury to, or death of, an individual resulting from the negligent operation, maintenance, or use of motor vehicles, or for loss or damage to property (except property referred to in paragraph (3) of this subsection), or both. A registration remains in effect only as long as the carrier continues to satisfy the security requirements of this paragraph.

''(2) A motor carrier and a foreign motor private carrier and foreign motor carrier operating in the United States (when providing transportation between places in a foreign country or between a place in one foreign country and a place in another foreign country) shall comply with the requirements of sections 13303 and 13304. To protect the public, the Secretary may require any such motor carrier to file the type of security that a motor carrier is required to file under paragraph (1) of this subsection.

''(3) The Secretary may require a registered motor carrier to file with the Secretary a type of security sufficient to pay a shipper or consignee for damage to property of the shipper or consignee placed in the possession of the motor carrier as the result of transportation provided under this part. A carrier required by law to pay a shipper or consignee for loss, damage, or default for which a connecting motor carrier is responsible is subrogated, to the extent of the amount paid, to the rights of the shipper or consignee under any such security.

''(b) The Secretary may register a person as a broker under section 13904 of this title only if the person files with the Secretary a bond, insurance policy, or other type of security approved by the Secretary to ensure that the transportation for which a broker arranges is provided. The registration remains in effect only as long as the broker continues to satisfy the security requirements of this subsection.

''(c)(1) The Secretary may register a person as a freight forwarder under section 13903 of this title only if the person files with the Secretary a bond, insurance policy, or other type of security approved by the Secretary. The security must be sufficient to pay, not more than the amount of the security, for each final judgment against the freight forwarder for bodily injury to, or death of, an individual, or loss of, or damage to, property (other than property referred to in paragraph (2) of this subsection), resulting from the negligent operation, maintenance, or use of motor vehicles by or under the direction and control of the freight forwarder when providing transfer, collection, or delivery service under this part.

''(2) The Secretary may require a registered freight forwarder to file with the Secretary a bond, insurance policy, or other type of security approved by the Secretary sufficient to pay, not more than the amount of the security, for loss of, or damage to, property for which the freight forwarder provides service.

''(3) The freight forwarder's registration remains in effect only as long as the freight forwarder continues to satisfy the security requirements of this subsection.

''(d) The Secretary may determine the type and amount of security filed under this section. A motor carrier may submit proof of qualifications as a self-insurer to satisfy the security requirements of this section. The Secretary shall adopt regulations governing the standards for approval as a self-insurer. Motor carriers which have been granted authority to self-insure as of the date of enactment of the Interstate Commerce Commission Sunset Act of 1995 shall retain that authority unless, for good cause shown and after notice and an opportunity for a hearing, the Secretary finds that the authority must be revoked.

''(e) The Secretary shall promulgate regulations requiring the submission to the Secretary of notices of insurance cancellation sufficiently in advance of actual cancellation so as to enable the Secretary to promptly revoke the registration of any carrier or broker after the effective date of the cancellation. The Secretary shall also prescribe the appropriate form of endorsement to be appended to policies of insurance and surety bonds which will subject the insurance policy or surety bond to the full security limits of the coverage required under this section.

''§ 13907. Household goods agents

''(a) Each motor carrier providing transportation of household goods subject to jurisdiction under subchapter I of chapter 135 of this title shall be responsible for all acts or omissions of any of its agents which relate to the performance of household goods transportation services (including accessorial or terminal services) subject to jurisdiction under subchapter I of chapter 135 of this title and which are within the actual or apparent authority of the agent from the carrier or which are ratified by the carrier.

''(b) Each motor carrier providing transportation of household goods subject to jurisdiction under subchapter I of chapter 135 of this title shall use due diligence and reasonable care in selecting and maintaining agents who are sufficiently knowledgeable, fit, willing, and able to provide adequate household goods transportation services (including accessorial and terminal services) and to fulfill the obligations imposed upon them by this part and by such carrier.

''(c)(1) Whenever the Secretary of Transportation has reason to believe from a complaint or investigation that an agent providing household goods transportation services (including accessorial and terminal services) under the authority of a motor carrier providing transportation of household goods subject to jurisdiction under subchapter I of chapter 135 of this title has violated section 14901(e) or 14912 of this title or is consistently not fit, willing, and able to provide adequate household goods transportation services (including accessorial and terminal services), the Secretary may issue to such agent a complaint stating the charges and containing notice of the time and place of a hearing which shall be held no later than 60 days after service of the complaint to such agent.

''(2) Such agent shall have the right to appear at such hearing and rebut the charges contained in the complaint.

''(3) If such person does not appear at the hearing or if the Secretary finds that the agent has violated section 14901(e) or 14912 of this title or is consistently not fit, willing, and able to provide adequate household goods transportation services (including accessorial and terminal services), the Secretary may issue an order to compel compliance with the requirement that the agent be fit, willing, and able. Thereafter, the Secretary may issue an order to limit, condition, or prohibit such agent from any involvement in the transportation or provision of services incidental to the transportation of household goods subject to jurisdiction under subchapter I of chapter 135 of this title if, after notice and an opportunity for a hearing, the Secretary finds that such agent, within a reasonable time after the date of issuance of a compliance order under this section, but in no event less than 30 days after such date of issuance, has willfully failed to comply with such order.

''(4) Upon filing of a petition with the Secretary by an agent who is the subject of an order issued pursuant to the second sentence of paragraph (3) of this subsection and after notice, a hearing shall be held with an opportunity to be heard. At such hearing, a determination shall be made whether the order issued pursuant to paragraph (3) of this subsection should be rescinded.

''(5) Any agent adversely affected or aggrieved by an order of the Secretary issued under this subsection may seek relief in the appropriate United States court of appeals as provided by and in the manner prescribed in chapter 158 of title 28, United States Code.

''(d) The antitrust laws, as defined in the first section of the Clayton Act (15 U.S.C. 12), do not apply to discussions or agreements between a motor carrier providing transportation of household goods subject to jurisdiction under subchapter I of chapter 135 of this title and its agents (whether or not an agent is also a carrier) related solely to (1) rates for the transportation of household goods under the authority of the principal carrier, (2) accessorial, terminal, storage, or other charges for services incidental to the transportation of household goods transported under the authority of the principal carrier, (3) allowances relating to transportation of household goods under the authority of the principal carrier, and (4) ownership of a motor carrier providing transportation of household goods subject to jurisdiction under subchapter I of chapter 135 of this title by an agent or membership on the board of directors of any such motor carrier by an agent.

''§ 13908. Registration and other reforms

''(a) IN GENERAL.—Within 18 months after the date of enactment of the Interstate Commerce Commission Sunset Act of 1995, the Secretary, in cooperation with the States, industry groups, and other interested parties shall conduct a study to determine whether, and to what extent, the current Department of Transportation identification number system, the single State registration system under section 14505, the registration system contained in this chapter, and the financial responsibility information system under section 13906, should be modified or replaced with a single, on-line Federal system.

''(b) FACTORS TO BE CONSIDERED.—In conducting the rulemaking under subsection (a), the Secretary shall, at a minimum, consider the following factors:

''(1) Funding for State enforcement of motor carrier safety regulations.

''(2) Whether the existing single State registration system is duplicative and burdensome.

''(3) The justification and need for collecting the statutory fee for such system under section 145-5(c)(2)(B)(iv).

''(4) The public safety.

''(5) The efficient delivery of transportation services.

''(6) How, and under what conditions, to extend the registration system to motor private carriers and to carriers exempt under sections 13502, 13503, and 13506.

''(c) FEE SYSTEM.—The Secretary may consider whether to establish, under section 9701 of title 31, a fee system for registration and filing evidence of financial responsibility under the new system under subsection (a).

''(d) DEADLINE.—The Secretary shall conclude the study under this section within 18 months and report to Congress on the findings, together with recommendations for any appropriate legislative changes that may be needed.

''CHAPTER 141—OPERATIONS OF CARRIERS

''SUBCHAPTER I—GENERAL REQUIREMENTS

''§ 14101. Providing transportation and service

''(a) A carrier providing transportation or service subject to jurisdiction under chapter 135 of this title shall provide the transportation or service on reasonable request. In addition, a motor carrier shall provide safe and adequate service, equipment, and facilities.

''(b) A carrier providing transportation or service subject to jurisdiction under chapter 135 of this title may enter into a contract with a shipper, other than a shipper of household goods described in section 13102(9)(A)(i), to provide specified services under specified rates and conditions. If the shipper and carrier in writing expressly waives any or all rights and remedies under this part for the transportation covered

by the contract, the transportation provided under that contract shall not be subject to those provisions of this part, and may not be subsequently challenged on the ground that it violates such provision. The parties may not waive the provisions governing registration, insurance, or safety fitness. The exclusive remedy for any alleged breach of a contract entered into under this subsection shall be an action in an appropriate State court or United States district court, unless the parties otherwise agree.

''§ 14102. Leased motor vehicles

''(a) The Secretary of Transportation may require a motor carrier providing transportation subject to jurisdiction under subchapter I of chapter 135 of this title that uses motor vehicles not owned by it to transport property under an arrangement with another party to—

''(1) make the arrangement in writing signed by the parties specifying its duration and the compensation to be paid by the motor carrier;

''(2) carry a copy of the arrangement in each motor vehicle to which it applies during the period the arrangement is in effect;

''(3) inspect the motor vehicles and obtain liability and cargo insurance on them; and

''(4) have control of and be responsible for operating those motor vehicles in compliance with requirements prescribed by the Secretary on safety of operations and equipment, and with other applicable law as if the motor vehicles were owned by the motor carrier.

''(b) The Secretary shall require, by regulation, that any arrangement, between a motor carrier of property providing transportation subject to jurisdiction under subchapter I of chapter 135 of this title and any other person, under which such other person is to provide any portion of such transportation by a motor vehicle not owned by the carrier shall specify, in writing, who is responsible for loading and unloading the property onto and from the motor vehicle.

''§ 14103. Loading and unloading motor vehicles

''(a) Whenever a shipper or receiver of property requires that any person who owns or operates a motor vehicle transporting property in interstate commerce (whether or not such transportation is subject to jurisdiction under subchapter I of chapter 135 of this title) be assisted in the loading or unloading of such vehicle, the shipper or receiver shall be responsible for providing such assistance or shall compensate the owner or operator for all costs associated with securing and compensating the person or persons providing such assistance.

''(b) It shall be unlawful to coerce or attempt to coerce any person providing transportation of property by motor vehicle for compensation in interstate commerce (whether or not such transportation is subject to jurisdiction under subchapter I of chapter 135 of this title) to load or unload any part of such property onto or from such vehicle or to employ or pay one or more persons to load or unload any part of such property onto or from such vehicle, except that this subsection shall not be construed as making unlawful any activity which is not unlawful under the National Labor Relations Act or the Act of March 23, 1932 (47 Stat. 70; 29 U.S.C. 101 et seq.), commonly known as the Norris-LaGuardia Act.

''§ 14104. Household goods carrier operations

''(a)(1) The Secretary of Transportation may issue regulations, including regulations protecting individual shippers, in order to carry out this part with respect to the transportation of household goods by motor carriers subject to jurisdiction under subchapter I of chapter 135 of this title. The regulations and paperwork required of motor carriers providing transportation of household goods shall be minimized to the maximum extent feasible consistent with the protection of individual shippers.

''(2) Regulations of the Secretary protecting individual shippers shall include, where appropriate, reasonable performance standards for the transportation of household goods subject to jurisdiction under subchapter I of chapter 135 of this title. In establishing performance standards under this paragraph, the Secretary shall take into account at least the following:

''(A) The level of performance that can be achieved by a well-managed motor carrier transporting household goods.

''(B) The degree of harm to individual shippers which could result from a violation of the regulation.

''(C) The need to set the level of performance at a level sufficient to deter abuses which result in harm to consumers and violations of regulations.

''(D) Service requirements of the carriers.

''(E) The cost of compliance in relation to the consumer benefits to be achieved from such compliance.

''(F) The need to set the level of performance at a level designed to encourage carriers to offer service responsive to shipper needs.

''(3) Nothing in this section shall be construed to limit the Secretary's authority to require reports from motor carriers providing transportation of household goods or to require such carriers to provide specified information to consumers concerning their past performance.

''(b)(1) Every motor carrier providing transportation of household goods subject to jurisdiction under subchapter I of chapter 135 of this title may, upon request of a prospective shipper, provide the shipper with an estimate of charges for transportation of household goods and for the proposed services. The Secretary shall not prohibit any such carrier from charging a prospective shipper for providing a written, binding estimate for the transportation and proposed services.

''(2) Any charge for an estimate of charges provided by a motor carrier to a shipper for transportation of household goods subject to jurisdiction under subchapter I of chapter 135 of this title shall be subject to the antitrust laws, as defined in the first section of the Clayton Act (15 U.S.C. 12).

''(c) The Secretary shall issue regulations that provide motor carriers providing transportation of household goods subject to jurisdiction under subchapter I of chapter 135 of this title with the maximum possible flexibility in weighing shipments, consistent with assurance to the shipper of accurate weighing practices. The Secretary shall not prohibit such carriers from backweighing shipments or from basing their charges on the reweigh weights if the shipper observes both the tare and gross weighings (or, prior to such weighings, waives in writing the opportunity to observe such weighings) and such weighings are performed on the same scale.

''SUBCHAPTER II—REPORTS AND RECORDS

''§ 14121. Definitions

''In this subchapter—

''(1) 'carrier' and 'broker' include a receiver or trustee of a carrier and broker, respectively.

''(2) 'association' means an organization maintained by or in the interest of a group of carriers or brokers providing transportation or service subject to jurisdiction under chapter 135 of this title that performs a service, or engages in activities, related to transportation under this part.

''§ 14122. Records: form; inspection; preservation

''(a) The Secretary of Transportation or the Intermodal Surface Transportation Board, as applicable, may prescribe the form of records required to be prepared or compiled under this subchapter by carriers and brokers, including records related to movement of traffic and receipts and expenditures of money.

''(b) The Secretary or Transportation Board, or an employee designated by the Secretary or Transportation Board, may on demand and display of proper credentials—

''(1) inspect and examine the lands, buildings, and equipment of a carrier or broker; and

''(2) inspect and copy any record of—

''(A) a carrier, broker, or association; and

''(B) a person controlling, controlled by, or under common control with a carrier if the Secretary or Transportation Board, as applicable, considers inspection relevant to that person's relation to, or transaction with, that carrier.

''(c) The Secretary or Transportation Board, as applicable, may prescribe the time period during which operating, accounting, and financial records must be preserved by carriers.

''§ 14123. Reports by carriers, brokers, and associations

''(a) The Secretary—

''(1) shall require class I and class II motor carriers (as defined by the Secretary) to file annual reports with the Secretary, including a detailed balance sheet and income statement, information related to the ownership or lease of equipment operated by the motor carrier, and data related to the movement of traffic and safety performance, the form and substance of which shall be prescribed by the Secretary and may vary for different classes of motor carriers;

''(2) may require carriers, freight forwarders, brokers, lessors, and associations, or classes of them as the Secretary may prescribe, to file quarterly, periodic, or special reports with the Secretary and to respond to surveys concerning their operations; and

''(3) shall have the authority upon good cause shown to exempt any party from the financial reporting requirements prescribed by subsection (a)(1) or (a)(2).

''(b) Any request for exemption under paragraph (3) of subsection (a) must demonstrate, at a minimum, that an exemption is required to avoid competitive harm and preserve confidential business information that is not otherwise publicly available. Exemptions shall only be granted for one-year periods.''.

''(c) The Intermodal Surface Transportation Board may require carriers to file special reports containing information needed by the Transportation Board.

''CHAPTER 143—FINANCE

''§ 14301. Security interests in certain motor vehicles

''(a) In this section—

''(1) 'motor vehicle' means a truck of rated capacity (gross vehicle weight) of at least 10,000 pounds, a highway tractor of rated capacity (gross combination weight) of at least 10,000 pounds, a property-carrying trailer or semitrailer with at least one load-carrying axle of at least 10,000 pounds, or a motor bus with a seating capacity of at least 10 individuals.

''(2) 'lien creditor' means a creditor having a lien on a motor vehicle and includes an assignee for benefit of creditors from the date of assignment, a trustee in a case under title 11 from the date of filing of the petition in that case, and a receiver in equity from the date of appointment of the receiver.

''(3) 'security interest' means an interest (including an interest established by a conditional sales contract, mortgage, equipment trust, or other lien or title retention contract, or lease) in a motor vehicle when the interest secures payment or performance of an obligation.

''(4) 'perfection', as related to a security interest, means taking action (including public filing, recording, notation on a certificate of title, and possession of collateral by the secured party), or the existence of facts, required under law to make a security interest enforceable against general creditors and subsequent lien creditors of a debtor, but does not include compliance with requirements related only to the establishment of a valid security interest between the debtor and the secured party.

''(b) A security interest in a motor vehicle owned by, or in the possession and use of, a carrier registered under section 13902 of this title

and owing payment or performance of an obligation secured by that security interest is perfected in all jurisdictions against all general, and subsequent lien, creditors of, and all persons taking a motor vehicle by sale (or taking or retaining a security interest in a motor vehicle) from, that carrier when—

''(1) a certificate of title is issued for a motor vehicle under a law of a jurisdiction that requires or permits indication, on a certificate or title, of a security interest in the motor vehicle if the security interest is indicated on the certificate;

''(2) a certificate of title has not been issued and the law of the State where the principal place of business of that carrier is located requires or permits public filing or recording of, or in relation to, that security interest if there has been such a public filing or recording; and

''(3) a certificate of title has not been issued and the security interest cannot be perfected under paragraph (2) of this subsection, if the security interest has been perfected under the law (including the conflict of laws rules) of the State where the principal place of business of that carrier is located.

''§ 14302. Pooling and division of transportation or earnings

''(a) A carrier providing transportation subject to jurisdiction under subchapter I of chapter 135 of this title may not agree or combine with another such carrier to pool or divide traffic or services or any part of their earnings without the approval of the Intermodal Surface Transportation Board under this section.

''(b) The Transportation Board may approve and authorize an agreement or combination between or among motor carriers of passengers, or between a motor carrier of passengers and a rail carrier of passengers, if the carriers involved assent to the pooling or division and the Transportation Board finds that a pooling or division of traffic, services, or earnings—

''(1) will be in the interest of better service to the public or of economy of operation; and

''(2) will not unreasonably restrain competition.

''(c)(1) Any motor carrier of property may apply to the Transportation Board for approval of an agreement or combination with another such carrier to pool or divide traffic or any services or any part of their earnings by filing such agreement or combination with the Transportation Board not less than 50 days before its effective date. Prior to the effective date of the agreement or combination, the Transportation Board shall determine whether the agreement or combination is of major transportation importance and whether there is substantial likelihood that the agreement or combination will unduly restrain competition. If the Transportation Board determines that neither of these two factors exists, it shall, prior to such effective date and without a hearing, approve and authorize the agreement or combination, under such rules and regulations as the Transportation Board may issue, and for such consideration between such carriers and upon such terms and conditions as shall be found by the Transportation Board to be just and reasonable. If the Transportation Board determines either that the agreement or combination is of major transportation importance or that there is substantial likelihood that the agreement or combination will unduly restrain competition, the Transportation Board shall hold a hearing concerning whether the agreement or combination will be in the interest of better service to the public or of economy in operation and whether it will unduly restrain competition and shall suspend operation of such agreement or combination pending such hearing and final decision thereon. After such hearing, the Transportation Board shall indicate to what extent it finds that the agreement or combination will be in the interest of better service to the public or of economy in operation and will not unduly restrain competition and if assented to by all the carriers involved, shall to that extent, approve and authorize the agreement or combination, under such rules and regulations as the Transportation Board may issue, and for such consideration between such carriers and upon such terms and conditions as shall be found by the Transportation Board to be just and reasonable.

''(2) In the case of an application for Transportation Board approval of an agreement or combination between a motor carrier providing transportation of household goods and its agents to pool or divide traffic or services or any part of their earnings, such agreement or combination shall be presumed to be in the interest of better service to the public and of economy in operation and not to restrain competition unduly if the practices proposed to be carried out under such agreement or combination are the same as or similar to practices carried out under agreements and combinations between motor carriers providing transportation of household goods to pool or divide traffic or service of any part of their earnings approved by the Interstate Commerce Commission before the date of enactment of the Interstate Commerce Commission Sunset Act of 1995.

''(3) The Transportation Board shall streamline, simplify, and expedite, to the maximum extent practicable, the process (including, but not limited to, any paperwork) for submission and approval of applications under this section for agreements and combinations between motor carriers providing transportation of household goods and their agents.

''(d) The Transportation Board may impose conditions governing the pooling or division and may approve and authorize payment of a reasonable consideration between the carriers.

''(e) The Transportation Board may begin a proceeding under this section on its own initiative or on application.

''(f) A carrier may participate in an arrangement approved by or exempted by the Transportation Board under this section without the approval of any other federal, State, or municipal body. A carrier participating in an approved or exempted arrangement is exempt from the antitrust laws and from all other law, including State and municipal law, as necessary to let that person carry out the arrangement.

''(g) Any agreements in operation under the provisions of this title on the date of enactment of the Interstate Commerce Commission Sunset Act of 1995 that are succeeded by this section shall remain in effect until further order of the Transportation Board.

''§ 14303. Consolidation, merger, and acquisition of control of motor carriers of passengers

''(a) APPROVAL REQUIRED.—The following transactions involving motor carriers of passengers subject to jurisdiction under subchapter I of chapter 135 of this title may be carried out only with the approval of the Intermodal Surface Transportation Board:

''(1) Consolidation or merger of the properties or franchises of at least 2 carriers into one operation for the ownership, management, and operation of the previously separately owned properties.

''(2) A purchase, lease, or contract to operate property of another carrier by any number of carriers.

''(3) Acquisition of control of a carrier by any number of carriers.

''(4) Acquisition of control of at least 2 carriers by a person that is not a carrier.

''(5) Acquisition of control of a carrier by a person that is not a carrier but that controls any number of carriers.

''(b) The Board shall approve and authorize a transaction under this section when it finds the transaction is consistent with the public interest. The Board shall consider at least the following:

''(1) The effect of the proposed transaction on the adequacy of transportation to the public.

''(2) The total fixed charges that result from the proposed transaction.

''(3) The interest of carrier employees affected by the proposed transaction.

The Board may impose conditions governing the transaction.

''(c) Within 30 days after an application is filed under this section, the Board shall either publish a notice of the application in the Federal Register or (2) reject the application if it is incomplete.

''(d) Written comments about an application may be filed with the Board within 45 days after notice of the application is published under subsection (c).

''(e) The Board shall conclude evidentiary proceedings by the 240th day after notice of the application is published under subsection (c). The Board shall issue a final decision by the 180th day after the conclusion of the evidentiary proceedings. The Board may extend a time period under this subsection, except that the total of all such extensions with respect to any application shall not exceed 90 days.

''(f) A carrier or corporation participating in or resulting from a transaction approved by the Board under this section, or exempted by the Board from the application of this section pursuant to section 13541, may carry out the transaction, own and operate property, and exercise control or franchises acquired through the transaction without the approval of a State authority. A carrier, corporation, or person participating in that approved or exempted transaction is exempt from the antitrust laws and from all other law, including State and municipal law, as necessary to let that person carry out the transaction, hold, maintain, and operate property, and exercise control or franchises acquired through the transaction.

''(g) This section shall not apply to transactions involving carriers whose aggregate gross operating revenues were not more than $2,000,000 during a period of 12 consecutive months ending not more than 6 months before the date of the agreement of the parties.

''CHAPTER 145—FEDERAL-STATE RELATIONS

''§ 14501. Federal authority over intrastate transportation

''(a) MOTOR CARRIERS OF PASSENGERS.—No State or political subdivision thereof and no interstate agency or other political agency of two or more States shall enact or enforce any law, rule, regulation, standard, or other provisions having the force and effect of law relating to scheduling of interstate or intrastate transportation (including discontinuance or reduction in the level of service) provided by motor carrier of passengers subject to jurisdiction under subchapter I of chapter 135 of this title on an interstate route or relating to the implementation of any change in the rates for such transportation or for charter transportation except to the extent that notice, not in excess of 30 days, of changes in schedules may be required. This subsection shall not apply to intrastate commuter bus operations.

''(b) FREIGHT FORWARDERS AND TRANSPORTATION BROKERS.—

''(1) GENERAL RULE.—Subject to paragraph (2) of this subsection, no State or political subdivision thereof and no intrastate agency or other political agency of two or more States shall enact or enforce any law, rule, regulation, standard, or other provision having the force and effect of law relating to intrastate rates, intrastate routes, or intrastate services of any freight forwarder or transportation broker.

''(2) CONTINUATION OF HAWAII'S AUTHORITY.—Nothing in this subsection and the amendments made by the Surface Freight Forwarder Deregulation Act of 1986 shall be construed to affect the authority of the State of Hawaii to continue to regulate a motor carrier operating within the State of Hawaii.

''(c) MOTOR CARRIERS OF PROPERTY.—

''(1) GENERAL RULE.—Except as provided in paragraphs (2) and (3), a State, political subdivision of a State, or political authority of 2 or more States may not enact or enforce a law, regulation, or other provision having the force and effect of law related to a price, route, or service of any motor carrier (other than a carrier affiliated with a direct air carrier covered by section 41713(b)(4) of this title) or any motor private carrier or any transportation intermediary (as defined in sections 13102(1) and 13102(7) of this subtitle) with respect to the transportation of property.

''(2) MATTERS NOT COVERED.—Paragraph (1)—

''(A) shall not restrict the safety regulatory authority of a State with respect to motor vehicles, the authority of a State to impose highway route controls or limitations based on the size or weight of the motor vehicle or the hazardous nature of the cargo, or the authority of a State to regulate motor carriers with regard to minimum amounts of financial responsibility relating to insurance requirements and self-insurance authorization;

''(B) does not apply to the transportation of household goods; and

''(C) does not apply to the authority of a State or a political subdivision of a State to enact or enforce a law, regulation, or other provision relating to the price and related conditions of for-hire motor vehicle transportation by a tow truck, if such transportation is performed—

''(i) at the request of a law enforcement agency; or

''(ii) without the prior consent or authorization of the owner or operator of the motor vehicle.

''(3) STATE STANDARD TRANSPORTATION PRACTICES.—

''(A) CONTINUATION.—Paragraph (1) shall not affect any authority of a State, political subdivision of a State, or political authority of 2 or more States to enact or enforce a law, regulation, or other provision, with respect to the intrastate transportation of property by motor carriers, related to—

''(i) uniform cargo liability rules,

''(ii) uniform bills of lading or receipts for property being transported,

''(iii) uniform cargo credit rules, or

''(iv) antitrust immunity for joint line rates or routes, classifications, and mileage guides,

if such law, regulation, or provision meets the requirements of subparagraph (B).

''(B) REQUIREMENTS.—A law, regulation, or provision of a State, political subdivision, or political authority meets the requirements of this subparagraph if—

''(i) the law, regulation, or provision covers the same subject matter as, and compliance with such law, regulation, or provision is no more burdensome than compliance with, a provision of this part or a regulation issued by the Secretary of Transportation or the Intermodal Surface Transportation Board under this part; and

''(ii) the law, regulation, or provision only applies to a carrier upon request of such carrier.

''(C) ELECTION.—Notwithstanding any other provision of law, a carrier affiliated with a direct air carrier through common controlling ownership may elect to be subject to a law, regulation, or provision of a State, political subdivision, or political authority under this paragraph.

''(4) This subsection shall not apply with respect to the State of Hawaii until August 22, 1997.

''§ 14502. Tax discrimination against motor carrier transportation property

''(a) In this section—

''(1) 'assessment' means valuation for a property tax levied by a taxing district;

''(2) 'assessment jurisdiction' means a geographical area in a State used in determining the assessed value of property for ad valorem taxation;

''(3) 'motor carrier transportation property' means property, as defined by the Secretary of Transportation, owned or used by a motor carrier providing transportation in interstate commerce whether or not such transportation is subject to jurisdiction under subchapter I of chapter 135 of this title; and

''(4) 'commercial and industrial property' means property, other than transportation property and land used primarily for agricultural purposes or timber growing, devoted to a commercial or industrial use and subject to a property tax levy.

''(b) The following acts unreasonably burden and discriminate against interstate commerce and a State, subdivision of a State, or authority acting for a State or subdivision of a State may not do any of them:

''(1) Assess motor carrier transportation property at a value that has a higher ratio to the true market value of the motor carrier transportation property than the ratio that the assessed value of other commercial and industrial property in the same assessment jurisdiction has to the true market value of the other commercial and industrial property.

''(2) Levy or collect a tax on an assessment that may not be made under paragraph (1) of this subsection.

''(3) Levy or collect an ad valorem property tax on motor carrier transportation property at a tax rate that exceeds the tax rate applicable to commercial and industrial property in the same assessment jurisdiction.

''(c) Notwithstanding section 1341 of title 28 and without regard to the amount in controversy or citizenship of the parties, a district court of the United States has jurisdiction, concurrent with other jurisdiction of courts of the United States and the States, to prevent a violation of subsection (b) of this section. Relief may be granted under this subsection only if the ratio of assessed value to true market value of motor carrier transportation property exceeds by at least 5 percent, the ratio of assessed value to true market value of other commercial and industrial property in the same assessment jurisdiction. The burden of proof in determining assessed value and true market value is governed by State law. If the ratio of the assessed value of other commercial and industrial property in the assessment jurisdiction to the true market value of all other commercial and industrial property cannot be determined to the satisfaction of the district court through the random-sampling method known as a sales assessment ratio study (to be carried out under statistical principles applicable to such a study), the court shall find, as a violation of this section—

''(1) an assessment of the motor carrier transportation property at a value that has a higher ratio to the true market value of the motor carrier transportation property than the assessment value of all other property subject to a property tax levy in the assessment jurisdiction has to the true market value of all such other property; and

''(2) the collection of ad valorem property tax on the motor carrier transportation property at a tax rate that exceeds the tax ratio rate applicable to taxable property in the taxing district.

''§ 14503. Withholding State and local income tax by certain carriers

''(a)(1) No part of the compensation paid by a motor carrier providing transportation subject to jurisdiction under subchapter I of chapter 135 of this title or by a motor private carrier to an employee who performs regularly assigned duties in 2 or more States as such an employee with respect to a motor vehicle shall be subject to the income tax laws of any State or subdivision of that State, other than the State or subdivision thereof of the employee's residence.

''(2) In this subsection 'employee' has the meaning given such term in section 31132 of this title.

''(b)(1) In this subsection, an employee is deemed to have earned more than 50 percent of pay in a State or subdivision of that State in which the time worked by the employee in the State or subdivision is more than 50 percent of the total time worked by the employee while employed during the calendar year.

''(2) A water carrier providing transportation subject to the jurisdiction of the Secretary of Transportation under subchapter II of chapter 135 of this title shall file income tax information returns and other reports only with—

''(A) the State and subdivision of residence of the employee (as shown on the employment records of the carrier); and

''(B) the State and subdivision in which the employee earned more than 50 percent of the pay received by the employee from the carrier during the preceding calendar year.

''(3) This subsection applies to pay of a master, officer, or sailor who is a member of the crew on a vessel engaged in foreign, coastwise, intercoastal or noncontiguous trade or in the fisheries of the United States.

''(c) A motor and motor private carrier withholding pay from an employee under subsection (a) of this section shall file income tax information returns and other reports only with the State and subdivision of residence of the employee.

''§ 14504. State tax

''A State or political subdivision thereof may not collect or levy a tax, fee, head charge, or other charge on—

''(1) a passenger traveling in interstate commerce by motor carrier;

''(2) the transportation of a passenger traveling in interstate commerce by motor carrier;

''(3) the sale of passenger transportation in interstate commerce by motor carrier; or

''(4) the gross receipts derived from such transportation.

''§ 14505. Single State registration system

''(a) DEFINITIONS.—In this section, the terms 'standards' and 'amendments to standards' mean the specification of forms and procedures required by regulations of the Secretary to prove the lawfulness of transportation by motor carrier referred to in section 13501.

''(b) GENERAL RULE.—The requirement of a State that a motor carrier, providing transportation subject to jurisdiction under subchapter I of chapter 135 and providing transportation in that State, must register with the State is not an unreasonable burden on transportation referred to in section 13501 when the State registration is completed under standards of the Secretary under subsection (c). When a State registration requirement imposes obligations in excess of the standards of the Secretary, the part in excess is an unreasonable burden.

''(c) SINGLE STATE REGISTRATION SYSTEM.—

''(1) IN GENERAL.—The Secretary shall maintain standards for implementing a system under which—

''(A) a motor carrier is required to register annually with only one State by providing evidence of its Federal registration under chapter 139;

''(B) the State of registration shall fully comply with standards prescribed under this section; and

''(C) such single State registration shall be deemed to satisfy the registration requirements of all other States.

''(2) SPECIFIC REQUIREMENTS.—

''(A) EVIDENCE OF CERTIFICATE; PROOF OF INSURANCE; PAYMENT OF FEES.—Under the standards of the Secretary implementing the single State registration system described in paragraph (1) of this subsection, only a State acting in its capacity as registration State under such single State system may require a motor carrier holding a certificate or permit issued under this part—

''(i) to file and maintain evidence of such certificate or permit;

''(ii) to file satisfactory proof of required insurance or qualification as a self-insurer;

''(iii) to pay directly to such State fee amounts in accordance with the fee system established

under subparagraph (B)(iv) of this paragraph, subject to allocation of fee revenues among all States in which the carrier operates and which participate in the single State registration system; and

''(iv) to file the name of a local agent for service of process.

''(B) RECEIPTS; FEE SYSTEM.—The standards of the Secretary—

''(i) shall require that the registration State issue a receipt, in a form, reflecting that the carrier has filed proof of insurance as provided under subparagraph (A)(ii) of this subsection and has paid fee amounts in accordance with the fee system established under clause (iv) of this subparagraph;

''(ii) shall require that copies of the receipt issued under clause (i) of this paragraph be kept in each of the carrier's commercial motor vehicles;

''(iii) shall not require decals, stamps, cab cards, or any other means of registering or identifying specific vehicles operated by the carrier;

''(iv) shall establish a fee system for the filing of proof of insurance as provided under subparagraph (A)(ii) of this subsection that—

''(I) is based on the number of commercial motor vehicles the carrier operates in a State and on the number of States in which the carrier operates,

''(II) minimizes the costs of complying with the registration system, and

''(III) results in a fee for each participating State that is equal to the fee, not to exceed $10 per vehicle, that such State collected or charged as of November 15, 1991; and

''(v) shall not authorize the charging or collection of any fee for filing and maintaining a certificate or permit under subparagraph (A)(i) of this paragraph.

''(C) PROHIBITED FEES.—The charging or collection of any fee under this section that is not in accordance with the fee system established under subparagraph (B)(iv) of this paragraph shall be deemed to be a burden on interstate commerce.

''(D) LIMITATION ON PARTICIPATION BY STATES.—Only a State which, as of January 1, 1991, charged or collected a fee for a vehicle identification stamp or number under part 1023 of title 49, Code of Federal Regulations, shall be eligible to participate as a registration State under this subsection or to receive any fee revenue under this subsection.

''CHAPTER 147—ENFORCEMENT; INVESTIGATIONS; RIGHTS; REMEDIES

''§ 14701. General authority

''(a) The Secretary of Transportation or the Intermodal Surface Transportation Board, as applicable, may begin an investigation under this part on the Secretary's or the Transportation Board's own initiative or on complaint. If the Secretary or Transportation Board, as applicable finds that a carrier or broker is violating this part, the Secretary or Transportation Board, as applicable, shall take appropriate action to compel compliance with this part. If the Secretary finds that a foreign motor carrier or foreign motor private carrier is violating chapter 139 of this title, the Secretary shall take appropriate action to compel compliance with that chapter. The Secretary or Transportation Board, as applicable, may take action under this subsection only after giving the carrier or broker notice of the investigation and an opportunity for a proceeding.

''(b) A person, including a governmental authority, may file with the Secretary or Transportation Board, as applicable, a complaint about a violation of this part by a carrier providing, or broker for, transportation or service subject to jurisdiction under this part or a foreign motor carrier or foreign motor private carrier providing transportation registered under section 13902 of this title. The complaint must state the facts that are the subject of the violation. The Secretary or Transportation Board, as applicable, may dismiss a complaint that it determines does not state reasonable grounds for investigation and action.

''(c) A formal investigative proceeding begun by the Secretary or Transportation Board under subsection (a) of this section is dismissed automatically unless it is concluded with administrative finality by the end of the third year after the date on which it was begun.

''§ 14702. Enforcement by the regulatory authority

''(a) The Secretary of Transportation or the Intermodal Surface Transportation Board, as applicable, may bring a civil action—

''(1) to enforce section 14103 of this title; or

''(2) to enforce this part, or a regulation or order of the Secretary or Transportation Board, as applicable, when violated by a carrier or broker providing transportation or service subject to jurisdiction under subchapter I or III of chapter 135 of this title or by a foreign motor carrier or foreign motor private carrier providing transportation registered under section 13902 of this title.

''(b) In a civil action under subsection (a)(2) of this section—

''(1) trial is in the judicial district in which the carrier, foreign motor carrier, foreign motor private carrier, or broker operates;

''(2) process may be served without regard to the territorial limits of the district or of the State in which the action is instituted; and

''(3) a person participating with a carrier or broker in a violation may be joined in the civil action without regard to the residence of the person.

''(c) The Transportation Board, through its own attorneys, may bring or participate in any civil action involving motor carrier undercharges.

''§ 14703. Enforcement by the Attorney General

''The Attorney General may, and on request of either the Secretary of Transportation or Intermodal Surface Transportation Board shall, bring court proceedings (1) to enforce this part or a regulation or order of the Secretary or Transportation Board or terms of registration under this part and (2) to prosecute a person violating this part or a regulation or order of the Secretary or Transportation Board or term of registration under this part.

''§ 14704. Rights and remedies of persons injured by carriers or brokers

''(a) A person injured because a carrier or broker providing transportation or service subject to jurisdiction under chapter 135 of this title does not obey an order of the Secretary of Transportation or the Intermodal Surface Transportation Board, as applicable, under this part, except an order for the payment of money, may bring a civil action to enforce that order under this subsection.

''(b)(1) A carrier providing transportation or service subject to jurisdiction under chapter 135 of this title is liable to a person for amounts charged that exceed the applicable rate for transportation or service contained in a tariff filed under section 13702 of this title.

''(2) A carrier or broker providing transportation or service subject to jurisdiction under chapter 135 of this title is liable for damages sustained by a person as a result of an act or omission of that carrier or broker in violation of this part.

''(c)(1) A person may file a complaint with the Transportation Board or the Secretary, as applicable, under section 14701(b) of this title or bring a civil action under subsection (b) (1) or (2) of this section to enforce liability against a carrier or broker providing transportation or service subject to jurisdiction under chapter 135 of this title.

''(2) When the Transportation Board or Secretary, as applicable, makes an award under subsection (b) of this section, the Transportation Board or Secretary, as applicable, shall order the carrier to pay the amount awarded by a specific date. The Transportation Board or Secretary, as applicable, may order a carrier or broker providing transportation or service subject to jurisdiction under chapter 135 of this title to pay damages only when the proceeding is on complaint. The person for whose benefit an order of the Transportation Board or Secretary requiring the payment of money is made may bring a civil action to enforce that order under this paragraph if the carrier or broker does not pay the amount awarded by the date payment was ordered to be made.

''(d)(1) When a person begins a civil action under subsection (b) of this section to enforce an order of the Transportation Board or Secretary requiring the payment of damages by a carrier or broker providing transportation or service subject to jurisdiction under chapter 135 of this title, the text of the order of the Transportation Board or Secretary must be included in the complaint. In addition to the district courts of the United States, a State court of general jurisdiction having jurisdiction of the parties has jurisdiction to enforce an order under this paragraph. The findings and order of the Transportation Board or Secretary are competent evidence of the facts stated in them. Trial in a civil action brought in a district court of the United States under this paragraph is in the judicial district in which the plaintiff resides or in which the principal operating office of the carrier or broker is located. In a civil action under this paragraph, the plaintiff is liable for only those costs that accrue on an appeal taken by the plaintiff.

''(2) All parties in whose favor the award was made may be joined as plaintiffs in a civil action brought in a district court of the United States under this subsection and all the carriers that are parties to the order awarding damages may be joined as defendants. Trial in the action is in the judicial district in which any one of the plaintiffs could bring the action against any one of the defendants. Process may be served on a defendant at its principal operating office when that defendant is not in the district in which the action is brought. A judgment ordering recovery may be made in favor of any of those plaintiffs against the defendant found to be liable to that plaintiff.

''(3) The district court shall award a reasonable attorney's fee as a part of the damages for which a carrier or broker is found liable under this subsection. The district court shall tax and collect that fee as a part of the costs of the action.

''§ 14705. Limitation on actions by and against carriers

''(a) A carrier providing transportation or service subject to jurisdiction under chapter 135 of this title must begin a civil action to recover charges for transportation or service provided by the carrier within 18 months after the claim accrues.

''(b) A person must begin a civil action to recover overcharges within 18 months after the claim accrues. If the claim is against a carrier providing transportation subject to jurisdiction under chapter 135 of this title and an election to file a complaint with the Intermodal Surface Transportation Board or Secretary of Transportation, as applicable, is made under section 14704(c)(1), the complaint must be filed within 3 years after the claim accrues.

''(c) A person must file a complaint with the Transportation Board or Secretary, as applicable, to recover damages under section 14704(b)(2) of this title within 2 years after the claim accrues.

''(d) The limitation periods under subsection (b) of this section are extended for 6 months from the time written notice is given to the claimant by the carrier of disallowance of any part of the claim specified in the notice if a written claim is given to the carrier within those limitation periods. The limitation periods under

subsection (b) of this section and the 2-year period under subsection (c) of this section are extended for 90 days from the time the carrier begins a civil action under subsection (a) of this section to recover charges related to the same transportation or service, or collects (without beginning a civil action under that subsection) the charge for that transportation or service if that action is begun or collection is made within the appropriate period.

''(e) A person must begin a civil action to enforce an order of the Transportation Board or Secretary against a carrier for the payment of money within one year after the date the order required the money to be paid.

''(f) This section applies to transportation for the United States Government. The time limitations under this section are extended, as related to transportation for or on behalf of the United States Government, for 3 years from the date of (1) payment of the rate for the transportation or service involved, (2) subsequent refund for overpayment of that rate, or (3) deduction made under section 3726 of title 31, whichever is later.

''(g) A claim related to a shipment of property accrues under this section on delivery or tender of delivery by the carrier.

''§ 14706. Liability of carriers under receipts and bills of lading

''(a)(1) A carrier providing transportation or service subject to jurisdiction under subchapter I or III of chapter 135 of this title shall issue a receipt or bill of lading for property it receives for transportation under this part. That carrier and any other carrier that delivers the property and is providing transportation or service subject to jurisdiction under subchapter I or III of chapter 135 or chapter 105 of this title are liable to the person entitled to recover under the receipt or bill of lading. The liability imposed under this paragraph is for the actual loss or injury to the property caused by (1) the receiving carrier, (2) the delivering carrier, or (3) another carrier over whose line or route the property is transported in the United States or from a place in the United States to a place in an adjacent foreign country when transported under a through bill of lading and, except in the case of a freight forwarder, applies to property reconsigned or diverted under a tariff filed under section 13702 of this title. Failure to issue a receipt or bill of lading does not affect the liability of a carrier. A delivering carrier is deemed to be the carrier performing the line-haul transportation nearest the destination but does not include a carrier providing only a switching service at the destination.

''(2) A freight forwarder is both the receiving and delivering carrier. When a freight forwarder provides service and uses a motor carrier providing transportation subject to jurisdiction under subchapter I of chapter 135 of this title to receive property from a consignor, the motor carrier may execute the bill of lading or shipping receipt for the freight forwarder with its consent. With the consent of the freight forwarder, a motor carrier may deliver property for a freight forwarder on the freight forwarder's bill of lading, freight bill, or shipping receipt to the consignee named in it, and receipt for the property may be made on the freight forwarder's delivery receipt.

''(b) The carrier issuing the receipt or bill of lading under subsection (a) of this section or delivering the property for which the receipt or bill of lading was issued is entitled to recover from the carrier over whose line or route the loss or injury occurred the amount required to be paid to the owners of the property, as evidenced by a receipt, judgment, or transcript, and the amount of its expenses reasonably incurred in defending a civil action brought by that person.

''(c)(1) A carrier may limit liability imposed under subsection (a) by establishing rates for the transportation of property (other than household goods) under which the liability of the carrier for such property is limited to a value established by written or electronic declaration of the shipper or by a mutual written agreement between the carrier and shipper.

''(2) If loss or injury to property occurs while it is in the custody of a water carrier, the liability of that carrier is determined by its bill of lading and the law applicable to water transportation. The liability of the initial or delivering carrier is the same as the liability of the water carrier.

''(d)(1) A civil action under this section may be brought against a delivering carrier (other than a rail carrier) in a district court of the United States or in a State court. Trial, if the action is brought in a district court of the United States is in a judicial district, and if in a State court, is in a State through which the defendant carrier operates.

''(2)(A) A civil action under this section may be brought against the carrier alleged to have caused the loss or damage, in the judicial district in which such loss or damage is alleged to have occurred.

''(B) A civil action under this section may be brought in a United States district court or in a State court.

''(C) In this section, 'judicial district' means (i) in the case of a United States district court, a judicial district of the United States, and (ii) in the case of a State court, the applicable geographic area over which such court exercises jurisdiction.

''(e) A carrier may not provide by rule, contract, or otherwise, a period of less than 9 months for filing a claim against it under this section and a period of less than 2 years for bringing a civil action against it under this section. The period for bringing a civil action is computed from the date the carrier gives a person written notice that the carrier has disallowed any part of the claim specified in the notice. For the purposes of this subsection—

''(1) an offer of compromise shall not constitute a disallowance of any part of the claim unless the carrier, in writing, informs the claimant that such part of the claim is disallowed and provides reasons for such disallowance; and

''(2) communications received from a carrier's insurer shall not constitute a disallowance of any part of the claim unless the insurer, in writing, informs the claimant that such part of the claim is disallowed, provides reason for such disallowance, and informs the claimant that the insurer is acting on behalf of the carrier.

''(f) A carrier or group of carriers subject to jurisdiction under subchapter I or III of chapter 135 of this title may petition the Transportation Board to modify, eliminate, or establish rates for the transportation of household goods under which the liability of the carrier for that property is limited to a value established by written declaration of the shipper or by a written agreement.

''(g) Within one year after enactment of the Interstate Commerce Commission Sunset Act of 1995, the Secretary shall deliver to the appropriate Congressional authorizing committees a report on the benefit of revising or modifying the terms or applicability of this section, together with any proposed legislation to implement the study's recommendations, if any.

''§ 14707. Private enforcement of registration requirement

''(a) If a person provides transportation by motor vehicle or service in clear violation of section 13901–13904 or 13906 of this title, a person injured by the transportation or service may bring a civil action to enforce any such section. In a civil action under this subsection, trial is in the judicial district in which the person who violated that section operates.

''(b) A copy of the complaint in a civil action under subsection (a) of this section shall be served on the Secretary of Transportation and a certificate of service must appear in the complaint filed with the court. The Secretary may intervene in a civil action under subsection (a) of this section. The Secretary may notify the district court in which the action is pending that the Secretary intends to consider the matter that is the subject of the complaint in a proceeding before the Secretary. When that notice is filed, the court shall stay further action pending disposition of the proceeding before the Secretary.

''(c) In a civil action under subsection (a) of this section, the court may determine the amount of and award a reasonable attorney's fee to the prevailing party. That fee is in addition to costs allowable under the Federal Rules of Civil Procedure.

''§ 14708. Dispute settlement program for household goods carriers

''(a)(1) As a condition of registration under section 13902 or 13903 of this title, a carrier providing transportation of household goods subject to jurisdiction under subchapter I or III of chapter 135 of this title must agree to offer to shippers neutral arbitration as a means of settling disputes between such carriers and shippers of household goods concerning the transportation of household goods.

''(b)(1) The arbitration that is offered must be designed to prevent a carrier from having any special advantage in any case in which the claimant resides or does business at a place distant from the carrier's principal or other place of business.

''(2) The carrier must provide the shipper an adequate notice of the availability of neutral arbitration, including a concise easy-to-read, accurate summary of the arbitration procedure and disclosure of the legal effects of election to utilize arbitration. Such notice must be given to persons for whom household goods are to be transported by the carrier before such goods are tendered to the carrier for transportation.

''(3) Upon request of a shipper, the carrier must promptly provide such forms and other information as are necessary for initiating an action to resolve a dispute under arbitration.

''(4) Each person authorized to arbitrate or otherwise settle disputes must be independent of the parties to the dispute and must be capable, as determined under such regulations as the Secretary of Transportation may issue, to resolve such disputes fairly and expeditiously. The carrier must ensure that each person chosen to settle the disputes is authorized and able to obtain from the shipper or carrier any material and relevant information to the extent necessary to carry out a fair and expeditious decision making process.

''(5) No fee for instituting an arbitration proceeding may be charged the shipper; except that, if the arbitration is binding solely on the carrier, the shipper may be charged a fee of not more than $25 for instituting an arbitration proceeding. In any case in which a shipper is charged a fee under this paragraph for instituting an arbitration proceeding and such dispute is settled in favor of the shipper, the person settling the dispute must refund such fee to the shipper unless the person settling the dispute determines that such refund is inappropriate.

''(6) The carrier must not require the shipper to agree to utilize arbitration prior to the time that a dispute arises.

''(7) The arbitrator may provide for an oral presentation of a dispute concerning transportation of household goods by a party to the dispute (or a party's representative), but such oral presentation may be made only if all parties to the dispute expressly agree to such presentation and the date, time, and location of such presentation.

''(8) The arbitrator must, as expeditiously as possible but at least within 60 days of receipt of written notification of the dispute, render a decision based on the information gathered, except that, in any case in which a party to the dispute fails to provide in a timely manner any information concerning such dispute which the person settling the dispute may reasonably require to resolve the dispute, the arbitrator may

extend such 60-day period for a reasonable period of time. A decision resolving a dispute may include any remedies appropriate under the circumstances, including repair, replacement, refund, reimbursement for expenses, and compensation for damages.

''(c) Materials and information obtained in the course of a decision making process to settle a dispute by arbitration under this section may not be used to bring an action under section 14905 of this title.

''(d) In any court action to resolve a dispute between a shipper of household goods and a motor carrier providing transportation or service subject to jurisdiction under subchapter I or III of chapter 135 of this title concerning the transportation of household goods by such carrier, the shipper shall be awarded reasonable attorney's fees if—

''(1) the shipper submits a claim to the carrier within 120 days after the date the shipment is delivered or the date the delivery is scheduled, whichever is later;

''(2) the shipper prevails in such court action; and

''(3)(A) a decision resolving the dispute was not rendered through arbitration under this section within the period provided under subsection (b)(8) of this section or an extension of such period under such subsection; or

''(B) the court proceeding is to enforce a decision rendered through arbitration under this section and is instituted after the period for performance under such decision has elapsed.

''(e) In any court action to resolve a dispute between a shipper of household goods and a carrier providing transportation, or service subject to jurisdiction under subchapter I or III of chapter 135 of this title concerning the transportation of household goods by such carrier, such carrier may be awarded reasonable attorney's fees by the court only if the shipper brought such action in bad faith—

''(1) after resolution of such dispute through arbitration under this section; or

''(2) after institution of an arbitration proceeding by the shipper to resolve such dispute under this section but before (A) the period provided under subsection (b)(8) for resolution of such dispute (including, if applicable, an extension of such period under such subsection) ends, and (B) a decision resolving such dispute is rendered.

''(f) The provisions of this section shall apply only in the case of collect-on-delivery transportation of those types of household goods described in section 13102(9)(A) of this title.

''§ 14709. Tariff reconciliation rules for motor carriers of property

''Subject to review and approval by the Intermodal Surface Transportation Board, motor carriers subject to jurisdiction under subchapter I of chapter 135 of this title (other than motor carriers providing transportation of household goods) and shippers may resolve, by mutual consent, overcharge and under-charge claims resulting from incorrect tariff provisions or billing errors arising from the inadvertent failure to properly and timely file and maintain agreed upon rates, rules, or classifications in compliance with section 13702 of this part or sections 10761 and 10762 of this title prior to the effective date of the Interstate Commerce Commission Sunset Act of 1995. Resolution of such claims among the parties shall not subject any party to the penalties for departing from a filed tariff.

''CHAPTER 149—CIVIL AND CRIMINAL PENALTIES

''§ 14901. General civil penalties

''(a) A person required to make a report to the Secretary of Transportation or to the Intermodal Surface Transportation Board, answer a question, or make, prepare, or preserve a record under this part concerning transportation subject to jurisdiction under subchapter I or III of chapter 135 of this title or transportation by a foreign carrier registered under section 13902 of this title, or an officer, agent, or employee of that person that (1) does not make the report, (2) does not specifically, completely, and truthfully answer the question, (3) does not make, prepare, or preserve the record in the form and manner prescribed, (4) does not comply with section 13901 of this title, or (5) does not comply with section 13902(c) of this title is liable to the United States Government for a civil penalty of not less than $500 for each violation and for each additional day the violation continues; except that, in the case of a person who does not have authority under this part to provide transportation of passengers, or an officer, agent, or employee of such person, that does not comply with section 13901 of this title with respect to providing transportation of passengers, the amount of the civil penalty shall not be less than $2,000 for each violation and for each additional day the violation continues.

''(b) A person subject to jurisdiction under subchapter I of chapter 135 of this title, or an officer, agent, or employee of that person, and who is required to comply with section 13901 of this title but does not so comply with respect to the transportation of hazardous wastes as defined by the Environmental Protection Agency pursuant to section 3001 of the Solid Waste Disposal Act (but not including any waste the regulation of which under the Solid Waste Disposal Act has been suspended by Congress) shall be liable to the United States for a civil penalty not to exceed $20,000 for each violation.

''(c) In determining and negotiating the amount of a civil penalty under subsection (a) or (d) concerning transportation of household goods, the degree of culpability, any history of prior such conduct, the degree of harm to shipper or shippers, ability to pay, the effect on ability to do business, whether the shipper has been adequately compensated before institution of the proceeding, and such other matters as fairness may require shall be taken into account.

''(d) If a carrier providing transportation of household goods subject to jurisdiction under subchapter I or III of chapter 135 of this title or a receiver or trustee of such carrier fails or refuses to comply with any regulation issued by the Secretary or the Transportation Board relating to protection of individual shippers, such carrier, receiver, or trustee is liable to the United States for a civil penalty of not less than $1,000 for each violation and for each additional day during which the violation continues.

''(e) Any person that knowingly engages in or knowingly authorizes an agent or other person (1) to falsify documents used in the transportation of household goods subject to jurisdiction under subchapter I or III of chapter 135 of this title which evidence the weight of a shipment, or (2) to charge for accessorial services which are not performed or for which the carrier is not entitled to be compensated in any case in which such services are not reasonably necessary in the safe and adequate movement of the shipment, is liable to the United States for a civil penalty of not less than $2,000 for each violation and of not less than $5,000 for each subsequent violation. Any State may bring a civil action in the United States district courts to compel a person to pay a civil penalty assessed under this subsection.

''(f) A person, or an officer, employee, or agent of that person, that knowingly pays accepts, or solicits a reduced rate or rates in violation of the regulations issued under section 13707 of this title is liable to the injured party or the United States for a civil penalty of not less than $5,000 and not more than $10,000 plus 3 times the amount of damages which a party incurs because of such violation.

''(g) Trial in a civil action under subsections (a) through (f) of this section is in the judicial district in which (1) the carrier or broker has its principal office, (2) the carrier or broker was authorized to provide transportation or service under this part when the violation occurred, (3) the violation occurred, or (4) the offender is found. Process in the action may be served in the judicial district of which the offender is an inhabitant or in which the offender may be found.

''§ 14902. Civil penalty for accepting rebates from carrier

''A person—

''(1) delivering property to a carrier providing transportation or service subject to jurisdiction under chapter 135 of this title for transportation under this part or for whom that carrier will transport the property as consignor or consignee for that person from a State or territory or possession of the United States to another State or possession, territory, or to a foreign country; and

''(2) knowingly accepting or receiving by any means a rebate or offset against the rate for transportation for, or service of, that property contained in a tariff required under section 13702 of this title,

is liable to the United States Government for a civil penalty in an amount equal to 3 times the amount of money that person accepted or received as a rebate or offset and 3 times the value of other consideration accepted or received as a rebate or offset. In a civil action under this section, all money or other consideration received by the person during a period of 6 years before an action is brought under this section may be included in determining the amount of the penalty, and if that total amount is included, the penalty shall be 3 times that total amount.

''§ 14903. Tariff violations

''(a) A person that knowingly offers, grants, gives, solicits, accepts, or receives by any means transportation or service provided for property by a carrier subject to jurisdiction under chapter 135 of this title at less than the rate in effect under section 13702 of this title shall be fined at least $1,000 but not more than $20,000, imprisoned for not more than 2 years, or both.

''(b) A carrier providing transportation or service subject to jurisdiction under chapter 135 of this title or an officer, director, receiver, trustee, lessee, agent, or employee of a corporation that is subject to jurisdiction under that chapter, that willfully does not observe its tariffs as required under section 13702 of this title, shall be fined at least $1,000 but not more than $20,000, imprisoned for not more than 2 years, or both.

''(c) When acting in the scope of their employment, the actions and omissions of persons acting for or employed by a carrier or shipper that is subject to subsection (a) or (b) of this section are considered to be the actions and omissions of that carrier or shipper as well as that person.

''(d) Trial in a criminal action under this section is in the judicial district in which any part of the violation is committed or through which the transportation is conducted.

''§ 14904. Additional rate violations

''(a) A person, or an officer, employee, or agent of that person, that—

''(1) knowingly offers, grants, gives, solicits, accepts, or receives a rebate for concession, in violation of a provision of this part related to motor carrier transportation subject to jurisdiction under subchapter I of chapter 135 of this title; or

''(2) by any means knowingly and willfully assists or permits another person to get transportation that is subject to jurisdiction under that subchapter at less than the rate in effect for that transportation under section 13702 of this title,

shall be fined at least $200 for the first violation and at least $250 for a subsequent violation.

''(b)(1) A freight forwarder providing service subject to jurisdiction under subchapter III of chapter 135 of this title, or an officer, agent, or employee of that freight forwarder, that knowingly and willfully assists a person in getting, or willingly permits a person to get, service provided under that subchapter at less than the

rate in effect for that service under section 13702 of this title, shall be fined not more than $500 for the first violation and not more than $2,000 for a subsequent violation.

''(2) A person that knowingly and willfully by any means gets, or attempts to get, service provided under subchapter III of chapter 135 of this title at less than the rate in effect for that service under section 13702 of this title, shall be fined not more than $500 for the first violation and not more than $2,000 for a subsequent violation.

''§ 14905. Penalties for violations of rules relating to loading and unloading motor vehicles

''(a) Any person who knowingly authorizes, consents to, or permits a violation of subsection (a) or (b) of section 14103 of this title or who knowingly violates subsection (a) of such section is liable to the United States Government for a civil penalty of not more than $10,000 for each violation.

''(b) Any person who knowingly violates section 14103(b) of this title shall be fined not more than $10,000, imprisoned for not more than 2 years, or both.

''§ 14906. Evasion of regulation of carriers and brokers

''A person, or an officer, employee, or agent of that person that by any means knowingly and willfully tries to evade regulation provided under this part for carriers or brokers shall be fined at least $200 for the first violation and at least $250 for a subsequent violation.

''§ 14907. Record keeping and reporting violations

''A person required to make a report to the Secretary of Transportation or to the Intermodal Surface Transportation Board, as applicable, answer a question, or make, prepare, or preserve a record under this part about transportation subject to jurisdiction under subchapter I or III of chapter 135 of this title, or an officer, agent, or employee of that person, that (1) willfully does not make that report, (2) willfully does not specifically, completely, and truthfully answer that question in 30 days from the date the Secretary or Transportation Board, as applicable, requires the question to be answered, (3) willfully does not make, prepare, or preserve that record in the form and manner prescribed, (4) knowingly and willfully falsifies, destroys, mutilates, or changes that report or record, (5) knowingly and willfully files a false report or record, (6) knowingly and willfully makes a false or incomplete entry in that record about a business related fact or transaction, or (7) knowingly and willfully makes, prepares, or preserves a record in violation of an applicable regulation or order of the Secretary or Transportation Board shall be fined not more than $5,000.

''§ 14908. Unlawful disclosure of information

''(a)(1) A carrier or broker providing transportation subject to jurisdiction under subchapter I, II, or III of chapter 135 of this title or an officer, receiver, trustee, lessee, or employee of that carrier or broker, or another person authorized by that carrier or broker to receive information from that carrier or broker may not knowingly disclose to another person, except the shipper or consignee, and another person may not solicit, or knowingly receive, information about the nature, kind, quantity, destination, consignee, or routing of property tendered or delivered to that carrier or broker for transportation provided under this part without the consent of the shipper or consignee if that information may be used to the detriment of the shipper or consignee or may disclose improperly to a competitor the business transactions of the shipper or consignee.

''(2) A person violating paragraph (1) of this subsection shall be fined not less than $2,000. Trial in a criminal action under this paragraph is in the judicial district in which any part of the violation is committed.

''(b) This part does not prevent a carrier or broker providing transportation subject to jurisdiction under chapter 135 of this title from giving information—

''(1) in response to legal process issued under authority of a court of the United States or a State;

''(2) to an officer, employee, or agent of the United States Government, a State, or a territory or possession of the United States; or

''(3) to another carrier or its agent to adjust mutual traffic accounts in the ordinary course of business.

''§ 14909. Disobedience to subpenas

''A person not obeying a subpena or requirement of the Secretary of Transportation or the Intermodal Surface Transportation Board to appear and testify or produce records shall be fined not less than $5,000, imprisoned for not more than one year, or both.

''§ 14910. General criminal penalty when specific penalty not provided

''When another criminal penalty is not provided under this chapter, a person that knowingly and willfully violates a provision of this part or a regulation or order prescribed under this part, or a condition of a registration under this part related to transportation that is subject to jurisdiction under subchapter I or III of chapter 135 of this title or a condition of a registration under section 13902 of this title, shall be fined at least $500 for the first violation and at least $500 for a subsequent violation. A separate violation occurs each day the violation continues.

''§ 14911. Punishment of corporation for violations committed by certain individuals

''An act or omission that would be a violation of this part if committed by a director, officer, receiver, trustee, lessee, agent, or employee of a carrier providing transportation or service subject to jurisdiction under chapter 135 of this title that is a corporation is also a violation of this part by that corporation. The penalties of this chapter apply to that violation. When acting in the scope of their employment, the actions and omissions of individuals acting for or employed by that carrier are considered to be the actions and omissions of that carrier as well as that individual.

''§ 14912. Weight-bumping in household goods transportation

''(a) For the purposes of this section, 'weight-bumping' means the knowing and willful making or securing of a fraudulent weight on a shipment of household goods which is subject to jurisdiction under subchapter I or III of chapter 135 of this title.

''(b) Any individual who has been found to have committed weight-bumping shall, for each offense, be fined at least $1,000 but not more than $10,000, imprisoned for not more than 2 years, or both.

''§ 14913. Conclusiveness of rates in certain prosecutions

''When a carrier publishes or files a particular rate under section 13702 or participates in such a rate, the published or filed rate is conclusive proof against that carrier, its officers, and agents that it is the legal rate for that transportation or service in a proceeding begun under section 14902 or 14903 of this title. A departure, or offer to depart, from that published or filed rate is a violation of those sections.''.

Subtitle B—Motor Carrier Registration and Insurance Requirements

SEC. 451. AMENDMENT OF SECTION 31102.

Section 31102(b)(1) is amended by—

(1) striking ''and'' at the end of subparagraph (O);

(2) striking the period at the end of subparagraph (P) and inserting a semicolon and ''and''; and

(3) adding at the end thereof the following:

''(Q) ensures that the State will cooperate in the enforcement of registration and financial responsibility requirements under sections 31140 and 31146 of this title, or regulations issued thereunder.''

SEC. 452. AMENDMENT OF SECTION 31138.

(a) Section 31138(c) is amended by adding at the end thereof the following new paragraph:

''(3) A motor carrier may obtain the required amount of financial responsibility from more than one source provided the cumulative amount is equal to the minimum requirements of this section.''.

(b) Section 31138(e) is amended—

(1) by striking ''or'' at the end of paragraph (2);

(2) by striking the period at the end of paragraph (3) and inserting ''; or''; and

(3) by adding at the end the following:

''(4) providing mass transportation service within a transit service area under an agreement with a Federal, State, or local government funded, in whole or in part, with a grant under section 5307, 5310, or 5311, including transportation designed and carried out to meet the special needs of elderly individuals and individuals with disabilities; Provided That, in any case in which the transit service area is located in more than 1 State, the minimum level of financial responsibility for such motor vehicle will be at least the highest level required for any of such States.''.

(c) Section 31139(e) is amended by adding at the end thereof the following:

''(3) A motor carrier may obtain the required amount of financial responsibility from more than one source provided the cumulative amount is equal to the minimum requirements of this section.''.

SEC. 453. SELF-INSURANCE RULES.

The Secretary of Transportation shall continue to enforce the rules and regulations of the Interstate Commerce Commission, as in effect on July 1, 1995, governing the qualifications for approval of a motor carrier as a self-insurer, until such time as the Secretary finds it in the public interest to revise such rules. The revised rules must provide for—

(1) continued ability of motor carriers to qualify as self-insurers; and

(2) the continued qualification of all carriers then so qualified under the terms and conditions set by the Interstate Commerce Commission or Secretary at the time of qualification.

SEC. 454. SAFETY FITNESS OF OWNERS AND OPERATORS.

Section 31144 is amended by—

(1) striking ''In cooperation with the Interstate Commerce Commission, the'' in the first sentence of subsection (a) and inserting ''The'';

(2) by striking ''sections 10922 and 10923'' in that sentence and inserting ''section 13902'';

(3) striking ''and the Commission'' in subsection (a)(1)(C); and

(4) striking subsection (b) and inserting the following:

''(b) FINDINGS AND ACTION ON REGISTRATIONS.—The Secretary shall—

''(1) find a registrant as a motor carrier unfit if the registrant does not meet the safety fitness requirements established under subsection (a) of this section; and

''(2) withhold registration.''.

TITLE V—AMENDMENTS TO OTHER LAWS

SEC. 501. FEDERAL ELECTION CAMPAIGN ACT OF 1971.

Section 401 of the Federal Election Campaign Act of 1971 (2 U.S.C. 451) is amended by—

(1) striking ''Interstate Commerce Commission,'' and inserting ''Intermodal Surface Transportation Board,''; and

(2) striking ''promulgate, within ninety days after the date of enactment of this Act,'' and inserting ''maintain''.

SEC. 502. AGRICULTURAL ADJUSTMENT ACT OF 1938.

Section 201 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1291) is amended by—

(1) striking ''Interstate Commerce Commission'' and inserting ''Intermodal Surface Transportation Board'' each place it appears;

(2) striking ''Commission'', wherever it appears and inserting ''Transportation Board''; and

(3) striking ''Commission's'' in subsection (b) and inserting ''Transportation Board's''.

SEC. 503. AGRICULTURAL MARKETING ACT OF 1946.

Section 203(j) of the Agricultural Marketing Act of 1946 (7 U.S.C. 1622(j)) is amended by striking ''Interstate Commerce Commission,'' and inserting ''Intermodal Surface Transportation Board,''.

SEC. 504. ANIMAL WELFARE ACT.

Section 15(a) of the Animal Welfare Act (7 U.S.C. 2145(a)) is amended by striking ''Interstate Commerce Commission'' and inserting ''Intermodal Surface Transportation Board''.

SEC. 505. TITLE 11, UNITED STATES CODE.

(a) Section 1164 of title 11, United States Code, is amended by striking ''Commission'' and inserting ''Intermodal Surface Transportation Board''.

(b) Section 1170 of title 11, United States Code, is amended by—

(1) striking ''Commission'' the first time it appears in subsection (b) and inserting ''Intermodal Surface Transportation Board''; and

(2) striking ''Commission'' wherever else it appears and inserting ''Transportation Board''.

(c) Section 1172 of title 11, United States Code, is amended by—

(1) striking ''Commission'' the first time it appears in subsection (b) and inserting ''Intermodal Surface Transportation Board''; and

(2) striking ''Commission'' wherever else it appears and inserting ''Transportation Board''.

SEC. 506. CLAYTON ACT.

The Clayton Act (15 U.S.C. 12 et seq.) is amended by—

(1) striking ''Interstate Commerce Commission'' in the last sentence of section 7 (15 U.S.C. 18) and inserting ''Intermodal Surface Transportation Board'';

(2) inserting a comma and ''Transportation Board,'' after ''such Commission'' in the last sentence of that section;

(3) striking ''Interstate Commerce Commission'' in the first sentence of section 11(a) (15 U.S.C. 21) and inserting ''Intermodal Surface Transportation Board''; and

(4) striking ''Interstate Commerce Commission'' in section 16 (15 U.S.C. 26) and inserting ''Intermodal Surface Transportation Board''.

SEC. 507. CONSUMER CREDIT PROTECTION ACT.

The Consumer Credit Protection Act (15 U.S.C. 1601 et seq.) is amended by—

(1) striking ''Interstate Commerce Commission'' in section 621(b)(4) (15 U.S.C. 1681s) and inserting ''Intermodal Surface Transportation Board'';

(2) inserting a comma and ''and part B of subtitle IV of title 49, United States Code, by the Secretary of Transportation with respect to any common carrier subject to such part;'' in section 621(b)(4) (15 U.S.C. 1681s) after ''those Acts'';

(3) striking ''Interstate Commerce Commission'' in section 704(a)(4) (15 U.S.C. 1691c) and inserting ''Intermodal Surface Transportation Board'';

(4) inserting a comma and ''and part B of subtitle IV of title 49, United States Code, by the Secretary of Transportation with respect to any common carrier subject to such part'' in section 704(a)(4) (15 U.S.C. 1691c) after ''those Acts'';

(5) striking ''Interstate Commerce Commission'' in section 814(b)(4) (15 U.S.C. 1692l) and inserting ''Intermodal Surface Transportation Board''; and

(6) inserting a comma and ''and part B of subtitle IV of title 49, United States Code, by the Secretary of Transportation with respect to any common carrier subject to such part'' in section 814(b)(4) (15 U.S.C. 1692l) after ''those Acts''.

SEC. 508. NATIONAL TRAILS SYSTEM ACT.

The National Trails System Act (16 U.S.C. 1241 et seq.) is amended by—

(1) striking ''Interstate Commerce Commission'' in the first sentence of section 8(d) (16 U.S.C. 1247(d)) and inserting ''Intermodal Surface Transportation Board'';

(2) striking ''Commission'' in the last sentence of section 8(d) (16 U.S.C. 1247(d)) and inserting ''Intermodal Surface Transportation Board''; and

(3) striking ''Interstate Commerce Commission'' in section 9(b) (16 U.S.C. 1248(d)) and inserting ''Intermodal Surface Transportation Board''.

SEC. 509. TITLE 18, UNITED STATES CODE.

Section 6001 of title 18, United States Code, is amended by striking ''Interstate Commerce Commission'' in subsection (1) and inserting ''Intermodal Surface Transportation Board''.

SEC. 510. INTERNAL REVENUE CODE OF 1986.

(a) Section 3231 of the Internal Revenue Code of 1986 (26 U.S.C. 3231) is amended by—

(1) striking ''Interstate Commerce Commission'' in subsection (a) and inserting ''Intermodal Surface Transportation Board''; and

(2) striking subsection (g) and inserting the following:

''(g) CARRIER.—For purposes of this chapter, the term 'carrier' means a rail carrier providing transportation subject to chapter 105 of title 49, United States Code.''.

(b) Section 7701(a) of the Internal Revenue Code of 1986 (26 U.S.C. 7701(a)) is amended by—

(1) striking ''Federal Power Commission'' in paragraph (33)(B) and inserting ''Federal Energy Regulatory Commission'';

(2) striking ''Interstate Commerce Commission'' in paragraph (33)(C)(i) and inserting ''Intermodal Surface Transportation Board'';

(3) striking ''Interstate Commerce Commission'' in paragraph (33)(C)(ii) with ''Federal Energy Regulatory Commission'';

(4) striking ''Interstate Commerce Commission under subchapter III of chapter 105'' in paragraph (33)(F) and inserting ''Secretary of Transportation under subchapter II of chapter 135'';

(5) striking ''subchapter I of'' in paragraph (33)(G); and

(6) striking ''subchapter I of'' in the first sentence of paragraph (33)(H).

SEC. 511. TITLE 28, UNITED STATES CODE.

(a) The heading of chapter 157 of part VI of title 28, United States Code, is amended by striking ''INTERSTATE COMMERCE COMMISSION'' and inserting ''INTERMODAL SURFACE TRANSPORTATION BOARD''.

(b) Section 2321 of title 28, United States Code, is amended by—

(1) striking ''Commission's'' in the section caption and inserting ''Intermodal Surface Transportation Board's''; and

(2) striking ''Interstate Commerce Commission'' in subsections (a) and (b) and inserting ''Intermodal Surface Transportation Board''.

(c) Section 2323 of title 28, United States Code, is amended by—

(1) striking ''Interstate Commerce Commission'' and inserting ''Intermodal Surface Transportation Board''; and

(2) striking ''Commission'', wherever it appears, and inserting ''Transportation Board''.

(d) Section 2341 of title 28, United States Code, is amended by—

(1) striking ''Interstate Commerce Commission'' in paragraph (3)(A);

(2) striking ''and'' in paragraph (3)(C);

(3) striking ''Act.'' in paragraph (3)(D) and inserting ''Act; and''; and

(4) inserting after paragraph (3)(D) the following:

''(E) the Transportation Board, when the order was entered by the Intermodal Surface Transportation Board.''.

(e) Section 2342 of title 28, United States Code, is amended by—

(1) inserting ''or pursuant to part B of subtitle IV of title 49, United States Code'' at the end of paragraph (3)(A); and

(2) striking paragraph (5) and inserting the following:

''(5) all rules, regulations, or final orders of the Intermodal Surface Transportation Board made reviewable by section 2321 of this title; and''.

SEC. 512. MIGRANT AND SEASONAL AGRICULTURAL WORKER PROTECTION ACT.

Section 401(b) of the Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1841(b)) is amended by—

(1) striking ''part II of the Interstate Commerce Act (49 U.S.C. 301 et seq.), or any successor provision of'' in paragraph (2)(C) and inserting ''part B of''; and

(2) striking ''part II of the Interstate Commerce Act (49 U.S.C. 301 et seq.), and any successor provision of'' in paragraph (3) and inserting ''part B of''.

SEC. 513. TITLE 39, UNITED STATES CODE.

(a) Section 5005 of title 39, United States Code, is amended by striking ''Interstate Commerce Commission'' in subsection (b)(3) and inserting ''Intermodal Surface Transportation Board''.

(b) Section 5203 of title 39, United States Code, is amended by—

(1) striking subsection (f) and redesignating subsection (g) as subsection (f); and

(2) striking ''Commission'' in subsection (f), as redesignated, and inserting ''Intermodal Surface Transportation Board''.

(c) Section 5207 of title 39, United States Code, is amended by—

(1) striking ''Interstate Commerce Commission'', in both the section caption and subsection (a), and inserting ''Intermodal Surface Transportation Board''; and

(2) striking ''Commission'' wherever it appears and inserting ''Transportation Board''.

(d) Section 5208 of title 39, United States Code, is amended by—

(1) striking ''Commission's'' in subsection (a) and inserting ''Transportation Board's''; and

(2) striking ''Commission'' wherever it appears and inserting ''Transportation Board''.

(e) The index for chapter 52 of title 39, United States Code, is amended by striking out the items relating to section 5207 and inserting in lieu thereof the following:

''5207. Intermodal Surface Transportation Board to fix rates.''.

SEC. 514. ENERGY POLICY ACT OF 1992.

Section 1340 of the Energy Policy Act of 1992 (42 U.S.C. 13369) is amended by striking ''Interstate Commerce Commission'' in subsections (a) and (d) and inserting ''Intermodal Surface Transportation Board''.

SEC. 515. RAILWAY LABOR ACT.

Section 151 of the Railway Labor Act (45 U.S.C. 151) is amended by—

(1) striking ''any express company, sleeping-car company, carrier by railroad, subject to'' in the first paragraph and inserting ''any railroad subject to'';

(2) striking ''Interstate Commerce Commission'' in the first and fifth paragraphs and inserting ''Intermodal Surface Transportation Board''; and

(3) striking ''Commission'', wherever it appears in the fifth paragraph and inserting ''Intermodal Surface Transportation Board''.

SEC. 516. RAILROAD RETIREMENT ACT OF 1974.

Section 1 of the Railroad Retirement Act of 1974 (45 U.S.C. 231) is amended by—

(1) striking subsection (a)(1)(i) and inserting:

''(i) any carrier by railroad subject to chapter 105 of title 49, United States Code;'';

(2) striking ''Interstate Commerce Commission'' in subsection (a)(2)(ii) and inserting ''Intermodal Surface Transportation Board'';

(3) striking ''Board,'' in subsection (a)(2)(ii) and inserting ''Railroad Retirement Board,''; and

(4) inserting ''Intermodal Surface Transportation Board,'' after Interstate Commerce Commission,'' in the first sentence of subsection (o).

SEC. 517. RAILROAD UNEMPLOYMENT INSURANCE ACT.

(a) Section 1 of the Railroad Unemployment Insurance Act (45 U.S.C. 351) is amended by—

(1) striking ''Interstate Commerce Commission'' in the second sentence of paragraph (a) and inserting ''Intermodal Surface Transportation Board'';

(2) striking ''Board,'' in the second sentence of paragraph (a) and inserting ''Railroad Retirement Board,''; and

(3) striking paragraph (b) and inserting the following:

''(b) The term 'carrier' means a carrier by railroad subject to chapter 105 of title 49, United States Code.''.

(b) Section 2(h)(3) of the Railroad Unemployment Insurance Act (45 U.S.C. 352(h)(3)) is amended by—

(1) striking ''Interstate Commerce Commission'' and inserting ''Intermodal Surface Transportation Board''; and

(2) striking ''Board,'' and inserting ''Railroad Retirement Board,''.

SEC. 518. EMERGENCY RAIL SERVICES ACT OF 1970.

Section 3 of the Emergency Rail Services Act of 1970 (45 U.S.C. 662) is amended by striking ''Commission'', wherever it appears in subsections (a) and (b), and inserting ''Intermodal Surface Transportation Board''.

SEC. 519. REGIONAL RAIL REORGANIZATION ACT OF 1973.

Section 304 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 744) is amended by—

(1) striking ''Commission'' in subsection (d)(1)(A) and inserting ''Intermodal Surface Transportation Board''; and

(2) striking ''Commission'' wherever else it appears in paragraph (1) or (3) of subsection (d), and in subsections (f) and (g), and inserting ''Transportation Board''.

SEC. 520. RAILROAD REVITALIZATION AND REGULATORY REFORM ACT OF 1976.

Section 510 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 830) is amended by striking ''section 20a of the Interstate Commerce Act (49 U.S.C. 20a)'' and inserting ''section 11301 of title 49, United States Code''.

SEC. 521. ALASKA RAILROAD TRANSFER ACT OF 1982.

Section 608 of the Alaska Railroad Transfer Act of 1982 (45 U.S.C. 1207) is amended by striking ''Interstate Commerce Commission'' wherever it appears in subsections (a) and (c) and inserting ''Intermodal Surface Transportation Board''.

SEC. 522. MERCHANT MARINE ACT, 1920.

(a) Section 8 of Merchant Marine Act, 1920 (46 U.S.C. App. 867) is amended by—

(1) striking ''Interstate Commerce Commission'' in both places that it appears and inserting ''Intermodal Surface Transportation Board''; and

(2) striking ''commission'' and inserting ''board''.

(b) Section 28 of the Merchant Marine Act, 1920 (46 U.S.C. App. 884) is amended by—

(1) striking ''Interstate Commerce Commission'' where it first appears and inserting ''Intermodal Surface Transportation Board''; and

(2) striking ''Interstate Commerce Commission'' wherever else it appears and inserting ''Transportation Board''.

SEC. 523. SERVICE CONTRACT ACT OF 1965.

Section 356(3) of the Service Contract Act of 1965 (41 U.S.C. 356(3)), is amended by striking ''where published tariff rates are in effect''.

SEC. 524. FEDERAL AVIATION ADMINISTRATION AUTHORIZATION ACT OF 1994.

Section 601(d) of the Federal Aviation Administration Authorization Act of 1994 (Pub. L. 103–305) is amended by striking all after ''subsection (c)'' and inserting ''shall not take effect as long as section 11501(g)(2) of title 49, United States Code, applies to that State.''.

SEC. 525. FIBER DRUM PACKAGING.

(a) IN GENERAL.—In the administration of chapter 51 of title 49, United States Code, the Secretary of Transportation shall issue a final rule within 60 days after the date of enactment of this Act authorizing the continued use of fiber drum packaging with a removable head for the transportation of liquid hazardous materials if—

(1) the packaging is in compliance with regulations of the Secretary under the Hazardous Materials Transportation Act as such Act was in effect before October 1, 1991;

(2) the packaging will not be used for the transportation of hazardous materials that include materials which are poisonous by inhalation; and

(3) the packaging will not be used in the transportation of hazardous materials from a point in the United States to a point outside the United States, or from a point outside the United States to a point inside the United States.

(b) HAZARDOUS MATERIALS TRANSPORTATION AUTHORIZATION ACT OF 1994.—Section 122 of the Hazardous Materials Transportation Authorization Act of 1994 (49 U.S.C. 5101 note) is repealed.

SEC. 526. TERMINATION OF CERTAIN MARITIME AUTHORITY.

(a) REPEAL OF INTERCOASTAL SHIPPING ACT, 1933.—The Act of March 3, 1933 (Chapter 199; 46 U.S.C. App. 843 et seq.), commonly referred to as the Intercoastal Shipping Act, 1933, is repealed effective September 30, 1996.

(b) REPEAL OF PROVISIONS OF SHIPPING ACT, 1916.—The following provisions of the Shipping Act, 1916, are repealed effective September 30, 1996:

(1) Section 3 (46 U.S.C. App. 804).
(2) Section 14 (46 U.S.C. App. 812).
(3) Section 15 (46 U.S.C. App. 814).
(4) Section 16 (46 U.S.C. App. 815).
(5) Section 17 (46 U.S.C. App. 816).
(6) Section 18 (46 U.S.C. App. 817).
(7) Section 19 (46 U.S.C. App. 818).
(8) Section 20 (46 U.S.C. App. 819).
(9) Section 21 (46 U.S.C. App. 820).
(10) Section 22 (46 U.S.C. App. 821).
(11) Section 23 (46 U.S.C. App. 822).
(12) Section 24 (46 U.S.C. App. 823).
(13) Section 25 (46 U.S.C. App. 824).
(14) Section 27 (46 U.S.C. App. 826).
(15) Section 29 (46 U.S.C. App. 828).
(16) Section 30 (46 U.S.C. App. 829).
(17) Section 31 (46 U.S.C. App. 830).
(18) Section 32 (46 U.S.C. App. 831).
(19) Section 33 (46 U.S.C. App. 832).
(20) Section 35 (46 U.S.C. App. 833a).
(21) Section 43 (46 U.S.C. App. 841a).
(22) Section 45 (46 U.S.C. App. 841c).

SEC. 527. CERTAIN COMMERCIAL SPACE LAUNCH ACTIVITIES.

The licensing of a launch vehicle or launch site operator (including any amendment, extension, or renewal of the license) under chapter 701 of title 49, United States Code, shall not be considered a major Federal action for purposes of section 102(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(C)) if—

(1) the Department of the Army has issued a permit for the activity; and

(2) the Army Corps of Engineers has found that the activity has no significant impact.

SEC. 528. USE OF HIGHWAY FUNDS FOR AMTRAK-RELATED PROJECTS AND ACTIVITIES.

Notwithstanding any other provision of law, the State of Vermont may use any unobligated funds apportioned to the State under section 104 of title 23, United States Code, to fund projects and activities related to the provision of rail passenger service on Amtrak within that State.

SEC. 529. VIOLATION OF GRADE-CROSSING LAWS AND REGULATIONS.

(a) FEDERAL REGULATIONS.—Section 31310 is amended by adding at the end thereof the following:

''(h) GRADE-CROSSING VIOLATIONS.—

''(1) SANCTIONS.—The Secretary shall issue regulations establishing sanctions and penalties relating to violations, by persons operating commercial motor vehicles, of laws and regulations pertaining to railroad-highway grade crossings.

''(2) MINIMUM REQUIREMENTS.—The regulations issued under paragraph (1) shall, at a minimum, require that—

''(A) the penalty for a single violation is not less than a 60-day disqualification of the driver's commercial driver's license; and

''(B) any employer that knowingly allows, permits, authorized, or requires an employee to operate a commercial motor vehicle in violation of such a law or regulation shall be subject to a civil penalty of not more than $10,000.''.

(b) DEADLINE.—The initial regulations required under section 31310(h) of title 49, United States Code, shall be issued not later than one year after the date of enactment of this Act.

(c) STATE REGULATIONS.—Section 31311(a) is amended by adding at the end thereof the following:

''(18) The State shall adopt and enforce regulations prescribed by the Secretary under section 31310(h) of this title.''.

TITLE VI—AUTHORIZATION

SEC. 601. AUTHORIZATION OF APPROPRIATIONS.

For the purpose of carrying out the provisions of this Act, there are authorized to be appropriated—

(1) for the closedown of the Interstate Commerce Commission and severance costs for Interstate Commerce Commission personnel, regardless of whether those severance costs are incurred by the Commission or by the Intermodal Surface Transportation Board, the balance of the $13,379,000 appropriated to the Commission for fiscal year 1996, together with any unobligated balances from user fees collected by the Commission during fiscal year 1996;

(2) for the operations of the Intermodal Surface Transportation Board for fiscal year 1996, $8,421,000, and any fees collected by the Transportation Board pursuant to section 9701 of title 31, United States Code, shall be made available to the Transportation Board; and

(3) for the operations associated with functions transferred from the Interstate Commerce Commission to the Intermodal Surface Transportation Board under this Act, $12,000,000 for each of the fiscal years 1997 and 1998, and any fees collected by the Transportation Board pursuant to section 9701 of title 31, United States Code, shall be made available to the Transportation Board.

TITLE VII—MISCELLANEOUS PROVISION

SEC. 701. PAY OF MEMBERS OF CONGRESS AND THE PRESIDENT DURING GOVERNMENT SHUTDOWNS.

(a) COMPARABLE PAY TREATMENT.—The pay of Members of Congress and the President shall be treated in the same manner and to the same extent as the pay of the most adversely affected Federal employees who are not compensated for any period in which appropriations lapse.

(b) EFFECTIVE DATE.—This section shall take effect December 15, 1995.

TITLE VIII—EFFECTIVE DATE

SEC. 801. EFFECTIVE DATE.

Except as otherwise expressly provided, this Act and the amendments made by this Act shall take effect on January 1, 1996.

NOTE

The RECORD of November 28 inadvertently reflects an error in the statement of Mr. PRESSLER that begins on page S17587. The permanent RECORD will be corrected to reflect the following statement.

Mr. PRESSLER. Mr. President, I rise in opposition to the DORGAN amendment. Let me make some general remarks on the issues surrounding antitrust and some of the standards that are used.

First, let me point out that this amendment is an attempt to change the way the ICC looks at the competition among rail carriers.

Changing the standards by which rail mergers are judged is very complicated. The current public interest standard is well established and has been in place for 75 years. Changing them now, particularly while two class one railroads are in a merger proceeding, without fully understanding how these changes affect railroads, shippers, States and even the financial markets, is not the approach we should take without fully understanding what we are doing. Unintended consequences could easily result.

We have one of the most efficient, if not the most efficient, transportation system in the world. A large part of the system is the level of competition that exists between the transportation modes and within the modes. Merely trying to guarantee competition in the rail industry by changing how the ICC looks at competition could easily backfire.

In the last 15 years, there have been roughly a dozen rail mergers, a tremendous increase in concentration when just measured by the number of railroads. However, at the same time, real rates have fallen up to 50 percent with the decreases occurring every year across all major commodity groups and in all major geographic areas.

This cannot just be attributed to deregulation, because without ongoing effective competition, the productivity gains that deregulation made possible for the railroads would not have been passed through to the shippers.

Without fully understanding what we are doing in this area, we could easily turn back this trend, even though we have the best intentions. As a result, I urge that this amendment be defeated. I urge my colleagues to vote against it as well.

Now specifically, the ICC does not apply or follow antitrust law, though it pays very close attention to competitive issues. The rail system is the underpinning of our entire economy, and many rail efficiencies can be achieved only through mergers. The ICC applies a public interest standard, under which the public benefits, competitive or otherwise, of a merger, are balanced against any detriments, again competitive or otherwise, of a merger. This process allows the Commission to approve consolidations, even if they otherwise would violate antitrust laws.

Rather than applying a narrow DOJ-type antitrust analysis, the Commission has consistently looked at all factors in deciding the competitive impact of rail mergers and has found pure concentration measures, such as the number of railroads serving a point, to be too simplistic a standard.

The UP/MKT merger is a good example. In that case, a number of markets went from three railroads to two. Various parties, including the Justice Department, argued that there would be a reduction in competition in those markets and that conditions should be imposed to introduce additional rail competition in them. The Commission rejected these arguments, finding that the continued competition from a strong second railroad, the increase in competition from the merged system's introductions of new single-line routes and other service improvements and other competitive constraints, such as modal and source competition, would keep competition vigorous.

In fact, the Commission was right. Union Pacific, at the request of an agency in California, had studied the rates in these 3-to-2 markets before and after the UP/MKT merger which was consummated in 1988.

What they found was that in all cases, rates had decreased significantly, confirming the Commission's conclusion that competition would be intensified by moving from three railroads, one of which, MKT, was a weak third, to two strong rail competitors.

The evidence is overwhelming that a mere reduction in the number of railroads does not stifle competition and, in fact, can enhance it where the effect is to add to the efficiency of the merged carriers and to their ability to offer new services.

Furthermore, there is ample proof all across the country that where markets are served by two railroads with broad, equivalent networks, rail competition is intense. Perhaps the best example is a precipitous drop in Powder River Basin, WY, coal rates following the entry of CNW into the basin as a competitor, in partnership with UP against Burlington Northern.

This experience of huge declines in the rates for the transportation of Powder River Basin coal is flatly incompatible with any theory that two railroads in a market will collude to keep prices at or near the level where other constraints, such as truck or product competition would cause a loss of traffic. Other examples are the intense two-railroad competition throughout the Southeast, between Norfolk Southern and CSX, and for Seattle/Tacoma and other Washington and Idaho traffic between BN and UP.

The number of railroads alone is not what matters, it is the effect of the merger on competition. Absent some compelling reason for change, which has yet to appear, the current process should stand.

Mr. President, let me make a few more remarks, and if other Senators come to the floor, I will certainly yield to them, but I want to continue to state my opposition to the DORGAN amendment.

Since 1920, due to the unique place railroads hold in our economy, Congress has consistently found that applying a pure antitrust standard to rail mergers is inappropriate.

Railroads carry roughly 40 percent of the freight in this country. These include 67 percent of new autos, 60 percent of coal, 68 percent of pulp and paper, 55 percent of household appliances, 53 percent of lumber, and 45 percent of all food products. Much of this material is delivered on a just-in-time basis.

What is impressive about these numbers is that, unlike the trucking, ship, barge, and aviation industries, which operate over national systems and which are built and/or maintained by Government and open to all operators, the goods that move by rail are transported over fixed, regional systems. Due to the regional nature of railroads, much more interchange occurs than in other modes of transportation. That is, railroads hand off cargo to one another while other modes of transportation have very little of this type of interchange—truck to truck, barge to barge.

As a consequence, there are natural efficiencies in these other modes that do not readily occur in the rail industry. To achieve these types of efficiencies in the rail industry, there must be consolidations. Mergers and consolidations allow the rail industry to maximize the use of its tracks, cut down on interchange points, get the most out of switching yards, consolidate terminals and, in short, provide better service to its customers at the lower cost.

In the past, Congress has recognized that rail consolidations cannot occur if rails are subject to the normal antitrust tests imposed on other businesses. What makes the ICC test different? There are three major components.

The first is the use of the public interest standard. When looking at a merger, the Department of Justice focuses almost exclusively on possible reductions in competition. Under a pure antitrust review, the Justice Department could deny all rail mergers, which is what happened before the public interest standard was adopted. The ICC, on the other hand, takes into account both the public benefits of a merger, in terms of increased efficiencies, better service and enhanced competition, and any harms, in terms of reduced competition and loss of service.

The ICC also has the power to condition mergers to take care of anticompetitive concerns. While the Department of Justice could try to negotiate conditions, it does not have the same power and discretion as the ICC. As a result, the ICC can condition and approve mergers that are in the public interest but might normally fail a review by the Department of Justice.

The second is the open and well-developed process the ICC has for reviewing rail mergers. The process includes discovery, the development of a detailed record and a full and fair opportunity for all affected parties, including Federal agencies, States, localities, shippers, and labor to be heard.

The DOJ process, on the other hand, is a closed informal ex parte process in which DOJ speaks with only those persons it chooses to and hears only the

evidence it chooses to. There is no opportunity for discovery and no opportunity to learn and to respond to what others are saying.

Taken together, these first two points are extremely important. Railroads cannot be duplicated. The lines that exist today are essentially it. While spur lines and short lines may be built, there will be no more railroads built from Chicago to LA or New York to St. Louis, not in the near future at least.

A fair, impartial system bound by rules and precedent where all parties can be heard is important in deciding how these systems are rationalized. A DOJ review is far more subjective. All parties may not be heard and DOJ can decide which types of traffic patterns to look at, thereby making the process unpredictable from one case to another, from one administration to another.

So I think, in looking at this, we have to look at what we are dealing with in the uniqueness of railroads. We will not have more railroad lines built in this country in terms of major routes from Chicago to LA or New York to St. Louis. We will have those remaining. But the question as a public interest standard allows some flexibility on the part of the rulemaking body which will now be in the Department of Transportation.

The third component is the actual approval. The Department of Justice does not approve mergers, it merely indicates whether or not the Government will bring suit to stop it. I think now under the Hart-Scott-Rodino standard, companies can get an opinion before they actually go to the expense of getting together.

The ICC process brings with it a formal approval and preemption of other laws. This is important for a number of reasons. Without formal approval, abandonments or line sales contemplated by a merger will have to be approved by another agency. State laws designed to prevent or hinder mergers will not be preempted. This is particularly important to the free flow of interstate commerce. Further, private parties would not be prohibited from bringing suit to seek conditions or block the transaction.

Finally, the Rail Labor Act would not be preempted. This is critical. Most railroads have 13 different unions with hundreds of different contracts. Absent the preemption of the Rail Labor Act and the imposition of labor protection conditions, the merging carriers would be forced to negotiate implementation agreements with each union under the Rail Labor Act. Because rail transportation is so vital to the economy, this act was created ''to avoid any interruption to commerce.'' The act achieves this goal by obligating management and labor to negotiate using a long, drawn-out process. Using this act to negotiate the implementation of a merger would take years. As a result, without a formal approval, even if a merger were approved by the Department of Justice it would more than likely be years, if ever, before it could be implemented.

At the heart of this debate is, What is best for transportation policy? The more than 500 railroads that are in existence today are an integral part of our country's transportation system and are a linchpin in our economy. We have the best rail system in the world. The long-established national railroad merger policy has served our country well. Absent some compelling reason, there is no basis for gambling with the future of an industry that is so important to our Nation.

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Because rail transportation is so vital to the economy, this act is created to avoid any interruption to commerce. This act achieves the goal by obligating management and labor to negotiate using a long, drawn-out process. Using this act to negotiate the implementation of a merger would take years. As a result, without a formal approval, even if a merger were approved by the Department of Justice, it would more than likely be years, if ever, before it would be implemented.

So, Mr. President, at the heart of our debate is, what is best for transportation policy? The more than 500 railroads that are in existence today are an integral part of our country's transportation system and are a linchpin in our economy.

We have the best rail system in the world, although it certainly needs improvements, and the real rail rates are 50 percent lower than when the Staggers Rail Act was passed in 1980, despite a reduction of about two-thirds in the number of major railroads. The long-established national railroad merger policy has served our country well.

Absent some compelling reason, there is no basis for gambling with the future of an industry that is so important to our Nation.

So let me say that I very much admire the intentions of my friend from North Dakota with this amendment. This piece of legislation has been many months in the negotiating stages. My friend from Nebraska first introduced the piece of legislation, and we decided to work as a team. We had in various shippers, railroads, the public, and consulted with State public commissions. We consulted with Governors. We consulted with experts. We developed this piece of legislation that is here on the floor. It is not perfect, but it has been crafted on a bipartisan basis. We also have the support of Senator HOLLINGS, the ranking member, and several of the Republican Senators.

We feel strongly that the public interest test that the ICC has said will go with it to the Department of Transportation, we feel it would be an additional layer of regulation to add to the Department of Justice and to add the antitrust standards which we feel exists anyway, but it would be an unnecessary additional regulatory burden. We are trying to deregulate as much as possible. This amendment would put us not only into a pre-Staggers position, but we never had this much regulation.

Mr. President, we had a similar debate here. I stood in this very place during the consideration of the telecommunications bill, which is now in conference. We debated between the public interest, convenience and necessity standard used by the Federal Communications Commission regarding administrative law cases as opposed to adding an additional Department of Justice review of certain telecommunications, and it was the decision of this body on a rollcall vote not to have the Department of Justice review because it is another layer of regulation.

We are trying to deregulate wherever possible. We are trying in this bill to have a review but not a lot of bureaucracy.

With all due respect, I must strongly oppose the Dorgan amendment. I urge my colleagues to defeat it.

Mr. DORGAN. Mr. President, I greatly respect the opinions of the Senator from South Dakota. I said before, and let me say it again, I think he and Senator EXON and Senator HOLLINGS have done a great job of putting together a bill, and with the exception of my interest in improving it with this amendment, I think that the legislation that they have crafted has great merit.

I want to just respond to two points the Senator from South Dakota made. First of all, my amendment does not actually take the authority for approval and move it from the board and DOT over to the Justice Department. That is not what the amendment does.

The amendment, rather, gives the Justice Department the opportunity to apply the Clayton standard and then advise the Board at DOT of its conclusion with respect to whether this meets the Clayton standard, and requires the Board to give substantial deference to it. The decision will still be made by the Board. That is an important point.

The second point is, the Senator from South Dakota spoke of deregulation. I am probably much less a fan of deregulation than he or some others in this Chamber. There are certain areas in our country where regulation, I think, is critical, where, without regulation, you get price gouging, you get pricing outside of a free market that disadvantages consumers. I will give some examples of that.

While I say this, I am not opposed to all deregulation. Some of it has been

just fine. But the Senator from South Dakota and I come from States that are sparsely populated, and we often, especially in the area of transportation, suffer the consequences of a deregulated environment in which, without competition, they extract prices that are unreasonable.

I used an example of the airline industry in the Commerce Committee that the Senator from South Dakota will recall. I held up a picture of a big Holstein milk cow, called Salem Sue. It is the world's largest cow. It happens to be metal, but it is the largest cow. It sits on a hill about 25 or 30 miles from the airport in Bismarck, ND, if you drive down Interstate 94. I pointed out, if you get on a plane here in Washington, DC—and I admit, there are probably not a lot of folks who have an urgent desire to go see the world's largest cow just for the sake of going to see the largest cow—but if your desire is to go from Washington, DC, to see the world's largest Holstein cow, 30 miles from the Bismarck airport, you will pay more money for that trip than if you get on an airplane in Washington, DC, and fly to London to see Big Ben.

Or, let us decide you want to see Mickey Mouse and decide to fly to Disneyland in Los Angeles. You fly twice as far and pay half as much as getting on an airplane here and flying to Bismarck. Question: Why would that be? Answer: Because we do not have substantial competition. We do not have the kind of competition in the airline industry that you have if you are in Chicago or Los Angeles. There, if you show up at the airport you have dozens of choices, all competing against each other, and the result is attractive choices at lower prices. But, with deregulation in the airline industry, we have fewer carriers, fewer choices, and higher prices.

Now, deregulation is not always a boon to areas of the country that are sparsely populated. When you talk about deregulation with respect to railroad carriers, you must find a way, it seems to me, to provide protections for consumers. My concern about all of this is that the consumers be afforded an opportunity to have a price in the open market system or the free market system that is a fair price. We can foresee circumstances, and we have already seen some in this country, where the prices charged in areas where there is not substantial competition are prices far above those that should be charged.

I mentioned earlier that my amendment is not directed at any carrier or any company or any merger. I mentioned I was interested in the telecommunications legislation, and I rose to offer an amendment including the Department of Justice there. I also have been involved in similar issues.

About 3 weeks ago, I asked the Banking Committee in the Senate to hold hearings on bank mergers. This is not a newfound interest of mine. I was on a program awhile back and they asked me about my interests in having hearings on bank mergers. We were talking about a specific merger where two very large banks were combining and merging to be a much, much larger bank. They said, ''Does that not make sense? Two banks become one and you are able to get rid of a lot of overhead and lay off 6,000 or 8,000 people. Does it not make sense to be more efficient?''

I said, ''Following that logic, it makes sense to have only one bank in America, just one. That way you do not have any duplication. Of course, you do not have any competition either.''

Following this to its extreme, this notion of efficiency without caring much about what it does to the free marketplace and without caring much about what violation occurs to the issue of competition, I suppose you could make a case that in every industry the fewer companies the better, because the fewer companies the more efficient you are going to become. You can lay off people. Of course, it would not be very efficient for consumers, because you can then engage in predatory pricing and no one can do very much about it.

The point I am making is, I am not here because of a railroad or a merger. I have been involved in the issue of bank mergers, calling for hearings at the Senate Banking Committee in recent weeks on that. I have been on the floor on several other merger issues. I hope that the Senate will take a look at this and decide this makes sense. If it does not, at the next opportunity I will again raise this issue.

Frankly, there are not many people in the Senate, or the House, for that matter, who care to talk much about antitrust issues. First of all, it puts most people to sleep. You know, it is better than medicine to put people to sleep. Nobody cares much about it. Nobody understands it much. It is, to some people, just plain theory. But, if you are a shipper and you are somewhere along the line someplace and the company that has captured the competition and is now the only opportunity for you to ship says to you, ''By the way, here is my price; if you do not like it, tough luck,'' all of a sudden, this has more meaning than theory.

If you are a traveler on an airline and you have no competition when you used to, but now the only remaining carrier that bought its competition and became one says to you, ''By the way, here is my price; if you do not like it, do not travel,'' then this is more than theory.

That is what persuades me to believe that in a free market system, if you preach competition but do not care very much about whether meaningful competition exists, or whether we have adequate enforcement of antitrust standards, then in my judgment you do no favor to the free market economy.

I hope people will consider this on its merits and consider that it would be wise for our country and for public policy to ask that this legislation be amended with the amendment I have offered, along with Senator BOND.

THE BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, more than 3 years ago I began these daily reports to the Senate to make a matter of record the exact Federal debt as of close of business the previous day.

As of the close of business Tuesday, November 28, the Federal debt stood at exactly $4,989,008,629,825.32. On a per capita basis, every man, woman, and child in America owes $18,938.36 as his or her share of the Federal debt.

It is important to recall, Mr. President, that the Senate this year missed an opportunity to approve a balanced budget amendment to the U.S. Constitution. Regrettably, the Senate failed by one vote in that first attempt to bring the Federal debt under control.

There will be another opportunity in the months ahead to approve such a Constitutional amendment.

THE RETIREMENT OF WILLIAM F. RAINES, JR.

Mr. FORD. Mr. President, William F. Raines, Jr., the administrative assistant to the Architect of the Capitol, is retiring on November 30, 1995, after 43 years of Federal service. Bill began his career with the Office of the Architect of the Capitol as a personnel clerk in February 1956. He steadily advanced in various jobs and in October, 1973, was appointed to the position of administrative assistant to George M. White, the Architect of the Capitol.

As the Architect's administrative assistant, Bill was the management official responsible for that office's human resources, accounting, and procurement divisions and the flag office, and for oversight of the operations of the Senate Restaurants. He also served as the coordinator of the superintendents and supervising engineers of the various buildings under the Architect's jurisdiction, as well as the Capitol grounds. In addition to these duties, Bill acted as adviser and counselor to the Architect and, in effect, served as Mr. White's chief of staff.

Bill was born in Henderson, NC, and attended Henderson High School. He completed his studies at Henderson Business College in July 1955. Prior to his employment with the Architect's Office, Bill worked for Southeastern Construction Co. and Harriet Cotton Mills. He served with the U.S. Coast Guard from February 1952, to August 1954.

Throughout his 43 years of Federal service and especially during the 40 years he served in the Office of the Architect of the Capitol, Bill Raines has distinguished himself as an excellent employee. He has received numerous letters of appreciation and recognition which attest to this fact. His dedication to fulfilling his duties and responsibilities and the exemplary professional manner in which he served will stand as a lasting memory for those who worked with him.

On behalf of Chairman WARNER and the members of the Rules Committee, I wish to extend to Bill Raines our gratitude for his years of service. To Bill and his wife, Myrtle, we extend our best wishes and good health in their retirement years.

20TH ANNIVERSARY OF IDEA

Mr. KENNEDY. Mr. President, today marks the 20th anniversary of the Education for All Handicapped Children Act, now known as the Individuals with Disabilities Education Act (IDEA). I was proud to serve on the committee that approved IDEA in 1975, and I am proud of its successes in the past two decades.

For millions of children with disabilities, IDEA has meant the difference between exclusion and participation, between dependence and independence, between lost potential and learning.

Before IDEA was enacted in 1975, young people with disabilities were often shut away and condemned to life without hope. In 1975, 4 million handicapped children did not receive the help they needed to succeed in school—either because their disabilities were undetected or because schools did not offer the services they needed. Virtually no disabled preschoolers received services. A million school-aged children with disabilities were excluded from public school.

Now, as a result of IDEA, every State in the Nation offers a free appropriate public education to the 5 million children with disabilities, and provides early intervention services to infants and toddlers with disabilities.

In the early 1970's, 95,000 children with disabilities lived in institutional settings. Today, fewer than 6,000 are institutionalized.

Only 33 percent of people with disabilities who grew up before IDEA were competitively employed within 5 years after leaving school. Today, nearly 60 percent of young men and women with disabilities become productive, taxpaying members of society.

In some respects, as we know, IDEA has fallen short. Too many students with disabilities drop out of school and have a high risk of unemployment. Some get in trouble with the law and spend a significant amount of time in jail. Enrollment of students with disabilities in college is still too low.

We need to be more vigilant in our mission to make sure that all these children grow up with the skills they need to get a job and live independently.

Legislation to reauthorize IDEA will be considered by Congress in the coming months, and I look forward to working closely with colleagues on both sides of the aisle to achieve these important goals. The best way for all of us to honor the law's success is to rededicate ourselves to making it even more effective in the future.

YELLOWSTONE COUNTY DUI TASK FORCE

Mr. BAUCUS. Mr. President, I am pleased to take this opportunity to recognize the Yellowstone County DUI task force in my State, Montana. They have been selected by the National Commission Against Drunk Driving to receive their eleventh annual citizen activist award on December 4, 1995.

The accomplishments of the Yellowstone County DUI task force are twofold. Not only did they continue their educational activities, they also worked with State leaders to form a legislative agenda to curb drunk driving. The results of their efforts are apparent. Our State now boasts the most comprehensive DUI legislative package ever passed in a single legislative session.

I would also like to recognize three members of the Yellowstone County DUI task force who were instrumental in bringing about their organization's accomplishments: Diane Stanley, Peter Stanley, and Angie Bentz. They, along with many other tireless workers, have earned the recognition of this body. Congratulations and good work.

THE DEATH OF THE REVEREND DR. RICHARD C. HALVERSON

Mr. HEFLIN. Mr. President, our long-time Senate Chaplain and dear friend, Dr. Richard C. Halverson, has passed away, just 8½ months after his retirement. He retired in March, after more than 14 years of distinguished service to this body. During his tenure as our Chaplain, Dr. Halverson proved himself over and over again not only to be a comforting spiritual guide, but an understanding, knowledgeable counselor. His ministry and support helped us immeasurably as we wrestled with difficult personal, political and policy issues.

Dick Halverson was superb at arranging for guest Chaplains, thereby giving wide representations to the many diverse religious faiths and denominations in our Nation. As Chaplain, he provided pastoral services for Members and our staffs—in particular to staffs, policemen. Every conceivable person that worked in the Senate felt his influence, knew him as a friend. He was a tremendous help to them in their personal problems. His soothing countenance and understanding manner made us feel more at home here in Washington.

Sworn in on February 2, 1981, the Reverend Dr. Richard Halverson was the 60th Senate Chaplain. A native of North Dakota, he was a graduate of Wheaton College and the Princeton Theological Seminary. He held honorary doctoral degrees from Wheaton and Gordon Colleges, and served churches in Kansas City, MO; Coalinga and Hollywood, CA; and for 23 years at his last pastorate at the Fourth Presbyterian Church in Bethesda, MD.

Dr. Halverson was deeply involved as an associate in the international prayer breakfast movement in Washington, and I had the personal pleasure of working directly with him on this project during the time he served here in the Senate. He was involved with the prayer breakfast for almost 40 years. He also served as chairman of the board of World Vision and president of Concern Ministries, and authored several books, including ''A Day at a Time,'' ''Be Yourself . . . and God's,'' ''Between Sundays,'' ''No Greater Power,'' and ''We the People.''

Richard Halverson was an outstanding example of why the Senate has always had a chaplain. He was completely devoted to the Senate and we are grateful for his many years of service. We appreciate him, we will miss him, and we extend our sincerest condolences to his wife Doris, his son Chris, and all their family. Dr. Halverson left his mark on this body, and it is not the same without him. The Senate is better for having had his guidance and wisdom for 14 years, and the Nation and world are better for having had him for all the years of his life. He was a true blessing.

TRIBUTE TO CHAPLAIN HALVERSON

Mr. HATFIELD. Mr. President, last night the U.S. Senate lost one of its greatest servants. Dr. Halverson left us in bodily presence but his spiritual legacy will remain eternal. For 14 years, Dr. Halverson provided guidance and counsel to the Senate as its Chaplain, continually reminding us of the true meaning of leadership. For Dr. Halverson a true leader was first a servant. He reminded us each and every day, as he strolled these halls, of what it means to serve the people around you.

I have said before that Dr. Halverson was one of the most Christlike men I have ever known, and today that sentiment has not changed. Even in failing health, he continued his ministries right to the very end. Those of you who remember him, recall his humble spirit, his compassionate heart, and his penetrating intellect. All of these qualities were supplemented with an uncanny ability to address complex issues with an insightful simplicity that cut to the core of an issue, illuminating the vital components so that even a child could understand.

Dr. Halverson will be profoundly missed. He will be missed by the Senators, but this mournful occasion will impact all who are involved in the business of Congress. Dr. Halverson was not just a pastor to the hundred men and women who serve in this body, but he was a pastor to the police officers, to the custodians, to the food servce workers, to everyone who was fortunate to cross his path. He ministered to all he encountered, indiscriminate of position, background, and stature. He genuinely loved everyone. I cannot recall him ever uttering an ill word toward anyone.

I am deeply saddened by this great loss. Dr. Halverson was my close friend

and brother. Now, Dr. Halverson is experiencing joy and happiness incomprehensible to those of us here on Earth. But until I see him again, I will miss this good and faithful servant. I will miss his warm greetings. I will miss his thoughtful prayers. I will miss his example of humility. Most of all, I will miss being his friend.

PAYING TRIBUTE TO THE LATE REV. RICHARD HALVERSON

Mr. THURMOND. Mr. President, our Senate family lost one of our finest and most respected members yesterday with the passing of the former Senate Chaplain, Reverend Richard Halverson.

As many in this body know, Reverend Halverson ministered to the spiritual needs of Senators, our families, and our staffs for many years. A man who was deeply devoted to his duties as a servant of God, and to his congregation, Reverend Halverson selflessly served the Senate and the Lord almost literally to the end of his life. Despite a lingering illness in his later years, the Reverend was never too tired or sick to spend time with someone who required his guidance and counsel. He was a man who always had a kind word and a positive thought to share with us. I remember, Reverend Halverson would often clip newspaper and magazine articles that he felt were particularly relevant to the issues of religion and morality and send them to Members. Along with these articles, he would include a thoughtful note offering his opinion on the author's thesis, a gesture that not only reminded us that the Reverend was looking after our spiritual well being, but that there are laws and directives as important as those found in the Constitution and code books that should dictate our behavior and conduct as leaders of the Nation. Reverend Halverson was so committed to the cause of restoring and maintaining righteousness in America, he was the only natural choice to author the foreward to the book Right vs. Wrong, written by my good friend and former Chief of Staff, Harry Dent.

I had the pleasure of knowing Reverend Halverson throughout his entire tenure in the Senate, and I can attest that he was one of the most faithful, capable, and dedicated Chaplains to have served the United States Senate. Those of us who were here when Reverend Halverson retired last year felt this Chamber had lost a friend, those of us who are here today know the world has lost a kind and compassionate man.

Reverend Halverson is survived by his wife Doris, and I hope that she knows that each of us joins her in mourning the loss of her husband. While her husband and our friend is gone, he has left a little something of himself with those who knew him and we will never forget the service he rendered, or the man he was.

TRIBUTE TO DR. RICHARD HALVERSON

Mr. COATS. Madam President, 60 years ago, during the holiday season that we are now celebrating, a young man by the name of Richard Halverson, fresh from the humble upbringing in North Dakota, found himself discouraged and lonely in Hollywood, CA—discouraged by his struggles to become an actor, and lonely as he was away from home during Christmas for the first time in his 19 years of life. It was then that Dick Halverson heard a call from the Lord—first, to believe and follow God, and then to preach the Lord's gospel and minister to all who had the great fortune of knowing him.

In 1988, I was privileged to be appointed to the U.S. Senate, filling the vacancy created by the election of then Senator Dan Quayle to the Vice Presidency. Several thoughts occurred to me and my family at that moment, but one of the greatest was that I would have the privilege of serving in the same institution where Rev. Dick Halverson served as Chaplain. My admiration for Dr. Halverson extended then and now beyond the fact that we graduated from the same institution, Wheaton College. My respect for Dick Halverson is based on the way he lived his life every day in humble service to his God.

The American public primarily saw Chaplain Halverson in the role of opening each Senate session with prayer. As he prepared those invocations each day, Pastor Halverson prayed that God would give him the wisdom to speak the Lord's truth in what is known as the world's greatest deliberative body. Without touching on specific bills or legislation, Dr. Halverson prayed that God would lead Members of the Senate in reasoned, respectful debate.

For example, Chaplain Halverson prayed here on the Senate floor, ''God of our fathers, if we separate morality from politics, we imperil our Nation and threaten self-destruction. Imperial Rome was not defeated by an enemy from without; it was destroyed by moral decay from within. Mighty God, over and over again you warned your people, Israel, that righteousness is essential to national health.'' Words of wisdom from a man of great wisdom.

Those of us privileged to know Dr. Halverson also experienced the dedicated and loving service he provided away from the lights of the Senate floor. Washington, DC, is one of the toughest, most intense places anybody can live, especially for those of us who work on Capitol Hill. From overloaded Senate schedules to endless traffic jams, Washington can grind even the strongest individuals—which I think is one of the reasons God gave us Dick Halverson.

Pastor Halverson used to say, ''I never try to be in a hurry.'' While all of us would scurry around from scheduled event to scheduled event, Chaplain Halverson lived that phrase, ''I never try to be in a hurry.'' And he slowed us down. A smile, a hand on the arm, a twinkle in his eye, and the words ''God bless you'' were delivered literally thousands, if not tens of thousands of times to Members of this body.

While our lives can be filled with stress and strife, it was Chaplain Halverson who always had the time to walk back with us to our office, chat with us on the telephone, and when necessary counsel us through our deepest struggles.

The real greatness of Dick Halverson, however, was exhibited in the ways that he provided this selfless service, not just to those of us privileged to serve as elected officials here in the U.S. Senate, but to all who crossed his doorstep or came upon his path. Just ask the Senate staffers, just ask the security guards, just ask the custodians, just ask the cooks in the kitchens, all of whom Dick Halverson knew on a first-name basis.

For Pastor Halverson, we are created equal in the sight of God. Each person is equally important and equally significant. Each personal need conveyed to him by others was serious and substantial regardless of who it was who conveyed that need. Our loss is great and our prayers are with his surviving family.

But for Richard Halverson this is a new day. He has left his post in his Nation's Government to sit in the throne room of the King. He has fought the good fight. He has finished the race and he kept the faith.

Chaplain Halverson once described himself as ''a servant to the public servants.'' Because he served his role so well, we know today with confidence that Dick Halverson is hearing those loving words from the Lord Almighty, ''Well done, good and faithful servant.''

I yield the floor. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

BILL PLACED ON CALENDAR—S. 1432

Mr. LOTT. Madam President, I understand there is a bill on the calendar that is due for its second reading.

The PRESIDING OFFICER. The Senator is correct.

The clerk will read the bill for the second time.

The assistant legislative clerk read as follows:

A bill (S. 1432) to amend title II of the Social Security Act to provide for increases in the amounts of allowable earnings under the Social Security earnings limit for individuals who have attained retirement age, and for other purposes.

Mr. LOTT. I object to further consideration of this matter at this time.

The PRESIDING OFFICER. The bill will be placed on the calendar.

UNANIMOUS-CONSENT AGREEMENT—H.R. 1058

Mr. LOTT. Madam President, I ask unanimous consent that at 9:30 a.m. on Tuesday, December 5, the Senate receive the conference report to accompany H.R. 1058, the securities litigation bill, and it be considered under the following time agreement: 8 hours equally divided in the usual manner between the chairman and the ranking minority member of the Banking Committee or their designee, with 15 minutes of the majority time under the control of Senator SPECTER, and that following the conclusion or yielding back of time, the Senate proceed to vote on the conference report without any intervening action or debate.

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

RESOLUTION RELATIVE TO THE DEATH OF THE REV. RICHARD HALVERSON, LATE THE CHAPLAIN OF THE U.S. SENATE

Mr. LOTT. Madam President, I ask unanimous consent the Senate proceed to the immediate consideration of Senate Resolution 196, submitted earlier today by Senators DOLE and DASCHLE.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

Whereas, the Reverend Dr. Richard Halverson became the 60th Senate Chaplain on February 2, 1981, and faithfully served the Senate for 14 years as Senate Chaplain;

Whereas, Dr. Halverson for more than 40 years was an associate in the International Prayer Breakfast Movement and Chairman of the Board of World Vision and President of Concerned Ministries;

Whereas, Dr. Halverson was the author of several books, including ''A Day at a Time'', ''No Greater Power'', ''We the People'', and ''Be Yourself. . .and God's''; and

Whereas, Dr. Halverson was graduated from Wheaton College and Princeton Theological Seminary, and served as a Presbyterian minister throughout his professional life, including being the senior pastor at Fourth Presbyterian Church of Bethesda, Maryland: Now, therefore, be it

Resolved, That the Senate has heard with profound sorrow and deep regret the announcement of the death of the Reverend Dr. Richard Halverson, late the Chaplain of the United States Senate.

Resolved, That the Secretary transmit an enrolled copy thereof to the family of the deceased.

Resolved, That when the Senate recesses or adjourns today, it recess or adjourn as a further mark of respect to the memory of the deceased.

Mr. LOTT. Madam President, I ask unanimous consent the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table and any statements relating to the resolution appear at the appropriate place in the RECORD.

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

The resolution (S. Res. 196) was agreed to.

The preamble was agreed to.

SADDLEBACK MOUNTAIN-ARIZONA SETTLEMENT ACT

Mr. LOTT. Madam President, I ask unanimous consent the Senate proceed to the immediate consideration of Calendar No. 245, S. 1341.

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

The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1341) to provide for the transfer of certain lands to the Salt River Pima-Maricopa Indian Community and the city of Scottsdale, Arizona, and for other purposes.

The Senate proceeded to consider the bill, which had been reported from the Committee on Indian Affairs, with amendments; as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets and the parts of the bill intended to be inserted are shown in italic.)

S. 1341

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Saddleback Mountain-Arizona Settlement Act of 1995''.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) the Salt River Pima-Maricopa Indian Community and the city of Scottsdale, Arizona, have a longstanding interest in a 701-acre tract of land known as the ''Saddleback Property'', that lies within the boundaries of the City and abuts the north boundary of the Salt River Pima-Maricopa Indian Reservation;

(2) the Saddleback Property includes Saddleback Mountain and scenic hilly terrain along the Shea Boulevard corridor in Scottsdale, Arizona, that—

(A) has significant conservation value; and

(B) is of historic and cultural significance to the Community;

(3) in 1989, the Resolution Trust Corporation acquired the Saddleback Property as a receiver for the Sun City Savings and Loan Association;

(4) after the Saddleback Property was noticed for sale by the Resolution Trust Corporation, a dispute between the Community and the City arose concerning the future ownership, use, and development of the Saddleback Property;

(5) the Community and the City each filed litigation with respect to that dispute, but in lieu of pursuing that litigation, the Community and the City negotiated a Settlement Agreement that—

(A) addresses the concerns of each of those parties with respect to the future use and development of the Saddleback Property; and

(B) provides for the dismissal of the litigation;

(6) under the Settlement Agreement, subject to detailed use and development agreements—

(A) the Community will purchase a portion of the Saddleback Property; and

(B) the City will purchase the remaining portion of that property; and

(7) the Community and the City agree that the enactment of legislation by Congress to ratify the Settlement Agreement is necessary in order for—

(A) the Settlement Agreement to become effective; and

(B) the United States to take into trust the property referred to in paragraph (6)(A) and make that property a part of the Reservation.

(b) PURPOSES.—The purposes of this Act are—

(1) to approve and confirm the Settlement, Release, and Property Conveyance Agreement executed by the Community, the City, and the Resolution Trust Corporation;

(2) to ensure that the Settlement Agreement (including the Development Agreement, the Use Agreement, and all other associated ancillary agreements and exhibits)—

(A) is carried out; and

(B) is fully enforceable in accordance with its terms, including judicial remedies and binding arbitration provisions; and

(3) to provide for the taking into trust by the United States of the portion of the Saddleback Property purchased by the Community in order to make that portion a part of the Reservation.

SEC. 3. DEFINITIONS.

For the purposes of this Act, the following definitions shall apply:

(1) CITY.—The term ''City'' means the city of Scottsdale, Arizona, which is a municipal corporation in the State of Arizona.

(2) COMMUNITY.—The term ''Community'' means the Salt River Pima-Maricopa Indian Community, which is a federally recognized Indian tribe.

(3) DEDICATION PROPERTY.—The term ''Dedication Property'' means a portion of the Saddleback Property, consisting of approximately 27 acres of such property, that the City will acquire in accordance with the Settlement Agreement.

(4) DEVELOPMENT AGREEMENT.—The term ''Development Agreement'' means the agreement between the City and the Community, executed on September 11, 1995, that sets forth conditions and restrictions that—

(A) are supplemental to the Settlement, Release and Property Conveyance Agreement referred to in paragraph (11)(A); and

(B) apply to the future use and development of the Development Property.

(5) DEVELOPMENT PROPERTY.—The term ''Development Property'' means a portion of the Saddleback Property, consisting of approximately 211 acres, that the Community will acquire in accordance with the Settlement Agreement.

(6) MOUNTAIN PROPERTY.—The term ''Mountain Property'' means a portion of the Saddleback Property, consisting of approximately 365 acres, that the Community will acquire in accordance with the Settlement Agreement.

(7) PRESERVATION PROPERTY.—The term ''Preservation Property'' means a portion of the Saddleback Property, consisting of approximately 98 acres, that the City will acquire in accordance with the Settlement Agreement.

(8) RESERVATION.—The term ''Reservation'' means the Salt River Pima-Maricopa Indian Reservation.

(9) SADDLEBACK PROPERTY.—The term ''Saddleback Property'' means a tract of land that—

(A) consists of approximately 701 acres within the city of Scottsdale, Arizona; and

(B) includes the Dedication Property, the Development Property, the Mountain Property, and the Preservation Property.

(10) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(11) SETTLEMENT AGREEMENT.—The term ''Settlement Agreement''—

(A) means the Settlement, Release and Property Conveyance Agreement executed on September 11, 1995, by the Community,

the City, and the Resolution Trust Corporation (in its capacity as the Receiver for the Sun State Savings and Loan Association, F.S.A.); and

(B) includes the Development Agreement, the Use Agreement, and all other associated ancillary agreements and exhibits.

(12) USE AGREEMENT.—The term ''Use Agreement'' means the agreement between the City and the Community, executed on September 11, 1995, that sets forth conditions and restrictions that—

(A) are supplemental to the Settlement, Release and Property Conveyance Agreement referred to in paragraph (11)(A); and

(B) apply to the future use and development of the Mountain Property.

SEC. 4. APPROVAL OF AGREEMENT.

The Settlement Agreement is hereby approved and ratified and shall be fully enforceable in accordance with its terms and the provisions of this Act.

SEC. 5. TRANSFER OF PROPERTIES.

(a) IN GENERAL.—Upon satisfaction of all conditions to closing set forth in the Settlement Agreement, the Resolution Trust Corporation shall transfer, pursuant to the terms of the Settlement Agreement—

(1) to the Secretary, the Mountain Property and the Development Property purchased by the Community from the Resolution Trust Corporation; and

(2) to the City, the Preservation Property and the Dedication Property purchased by the City from the Resolution Trust Corporation.

(b) TRUST STATUS.—The Mountain Property and the Development Property transferred pursuant to subsection (a)(1) shall, subject to sections 6 and 7—

(1) be held in trust by the United States for the Community; and

(2) become part of the Reservation.

(c) LIMITATION ON LIABILITY.—Notwithstanding any other provision of law, the United States shall not incur any liability for conditions, existing prior to the transfer, on the parcels of land referred to in subsection (b) to be transferred to the United States in trust for the Salt River Pima-Maricopa Indian Community.

[(c)] *(d)* RECORDS.—Upon the satisfaction of all of the conditions of closing set forth in the Settlement Agreement, the Secretary shall file a plat of survey depicting the Saddleback Property (that includes a depiction of the Dedication Property, the Development Property, the Mountain Property, and the Preservation Property) with—

(1) the office of the Recorder of Maricopa County, Arizona; and

(2) the Titles and Records Center of the Bureau of Indian Affairs, located in Albuquerque, New Mexico.

SEC. 6. LIMITATIONS ON USE AND DEVELOPMENT.

Upon the satisfaction of all of the conditions of closing set forth in the Settlement Agreement, the properties transferred pursuant to paragraphs (1) and (2) of section 5(a) shall be subject to the following limitations and conditions on use and development:

(1) PRESERVATION PROPERTY.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the Preservation Property shall be forever preserved in its natural state for use only as a public park or recreation area that shall—

(i) be utilized and maintained for the purposes set forth in section 4(C) of the Settlement Agreement; and

(ii) be subject to the restrictions set forth in section 4(C) of the Settlement Agreement.

(B) SHEA BOULEVARD.—At the sole discretion of the City, a portion of the Preservation Property may be used to widen, reconfigure, repair, or reengineer Shea Boulevard in accordance with section 4(D) of the Settlement Agreement.

(2) DEDICATION PROPERTY.—The Dedication Property shall be used to widen, reconfigure, repair, or reengineer Shea Boulevard and 136th Street, in accordance with sections 4(D) and 7 of the Settlement Agreement.

(3) MOUNTAIN PROPERTY.—Except for the areas in the Mountain Property referred to as Special Cultural Land in section 5(C) of the Settlement Agreement, the Mountain Property shall be forever preserved in its natural state for use only as a public park or recreation area that shall—

(A) be utilized and maintained for the purposes set forth in section 5(C) of the Settlement Agreement; and

(B) be subject to the restrictions set forth in section 5(C) of the Settlement Agreement.

(4) DEVELOPMENT PROPERTY.—The Development Property shall be used and developed for the economic benefit of the Community in accordance with the provisions of the Settlement Agreement and the Development Agreement.

SEC. 7. AMENDMENTS TO THE SETTLEMENT AGREEMENT.

No amendment made to the Settlement Agreement (including any deviation from an approved plan described in section 9(B) of the Settlement Agreement) shall become effective, unless the amendment—

(1) is made in accordance with the applicable requirements relating to the form and approval of the amendment under sections 9(B) and 34 of the Settlement Agreement; and

(2) is consistent with the provisions of this Act.

Mr. MCCAIN. Mr. President, I rise in support of S. 1341, the Saddleback Mountain-Arizona Settlement Act of 1995.

I was very pleased to join with Senator KYL in sponsoring this legislation. Its purpose is to approve an agreement to settle a dispute between the Salt River Pima-Maricopa Indian community and the city of Scottsdale, AZ, over 701 acres of land known as the Saddleback property. This property is currently held by the Resolution Trust Corporation.

The Saddleback property is located in the easternmost part of Scottsdale, abuts 1.7 miles of the northern boundary of the Salt River Indian Reservation, and is undeveloped. Its most distinctive feature is Saddleback Mountain, a striking natural landmark that rises abruptly from the desert floor to a height of 900 feet. Due to its location, high conservation value and other special features, the property's use and disposition are of major importance both to the community and the city.

A dispute arose after the Resolution Trust Corporation, in its capacity as the receiver for the Sun State Savings & Loan Association, acquired the Saddleback property in 1989 and subsequently noticed it for sale. The community submitted the highest cash bid for the property, $6,500,000, conditioned upon being able to develop the flat portion of the property. the city, concerned about the direction that development of the property by the community might follow, sued the Resolution Trust Corporation to acquire the property by eminent domain. The Resolution Trust Corporation then rejected all auction sale bids and determined to transfer the property to Scottsdale through the eminent domain litigation. The community thereupon filed civil rights actions against the city and the Resolution Trust Corporation, seeking damages.

Rather than pursue the litigation, the city, the community and the Resolution Trust Corporation sought to resolve their dispute through negotiation. The result of their efforts is a settlement agreement under which the Resolution Trust Corporation will sell the property to Scottsdale and the community for a total of $6,500,000. The city will pay $636,000 to acquire approximately 98 acres for preservation and 27 acres for future expansion of an important traffic artery, Shea Boulevard. The community will pay $5,864,000 to acquire 576 acres adjoining its reservation, and this land will be added to its reservation. The two lawsuits, which are pending in the U.S. District Court for the District of Arizona, will be dismissed.

Under the settlement agreement, 365 acres of the property to be acquired by the community, including Saddleback Mountain, will be forever preserved in its natural state for use only as a public park and recreation area. Except for a limited number of sites that are of particular historical and cultural significance to the community, the public will have free access to this area. Together with the preservation property to be acquired by the city, it will be jointly managed by the city and the community. The remaining 211 acres to be acquired by the community will be subject to a detailed development agreement with the city, as well as the limitations and restrictions of current community zoning laws.

Enactment of S. 1341 will eliminate any ambiguity as to the enforceability of the settlement agreement, and will ensure that the lands purchased by the Salt River Indian Community will be held in trust by the United States as part of the Salt River Reservation.

The sale of the Saddleback property to the Indian community and the city will realize $6.5 million for the taxpayers, less any closing costs incurred by the Resolution Trust Corporation. No new authorization or expenditure of Federal funds is needed and none is provided by S. 1341.

The Committee on Indian Affairs held a hearing on S. 1341 on October 26, 1995, and on November 7, by voice vote, ordered the bill reported with an amendment. As amended, the bill has the unqualified support of the administration as well as the Salt River Pima-Maricopa Indian community and the city of Scottsdale.

The Saddleback settlement reflects what President Lincoln referred to as the better angels of our nature. Rather than spend time and money on acrimonious litigation, the leaders of the tribal and city governments emphasized their common interests and negotiated their differences in good faith as neighbors. The enhanced mutual respect resulting from this cooperation is a significant byproduct of their efforts.

In particular, I congratulate Ivan Makil, the President of the Salt Water Pima-Maricopa Indian community, and Herb Drinkwater, the mayor of Scottsdale, and their respective councils, for their enlightened leadership in resolving the questions and issues involving the Saddleback property.

As a result of their collective efforts, Saddleback Mountain will be preserved in its natural state in a park setting within what is a rapidly developing urban area. For generations to come, citizens of every stripe will be able to appreciate and enjoy this unique natural monument. Similarly, the Salt River Indian community is assured of always being able to preserve and protect the historic and cultural areas of the mountain that are of great significance to its members.

The Saddleback settlement is a victory for common sense and civility. It is irrefutable evidence that good will and mutual respect are key to finding win-win solutions to complex problems. S. 1341 confirms this victory and this evidence. I strongly urge the Senate to approve it.

Mr. LOTT. I ask unanimous consent the committee amendments be agreed to, the bill be deemed read a third time and passed as amended, the motion to reconsider be laid upon the table, and any statements relating to the bill be placed in the RECORD at the appropriate place.

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

The bill (S. 1341), as amended, was deemed read a third time and passed, as follows:

S. 1341

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Saddleback Mountain-Arizona Settlement Act of 1995''.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) the Salt River Pima-Maricopa Indian Community and the city of Scottsdale, Arizona, have a longstanding interest in a 701-acre tract of land known as the ''Saddleback Property'', that lies within the boundaries of the City and abuts the north boundary of the Salt River Pima-Maricopa Indian Reservation;

(2) the Saddleback Property includes Saddleback Mountain and scenic hilly terrain along the Shea Boulevard corridor in Scottsdale, Arizona, that—

(A) has significant conservation value; and

(B) is of historic and cultural significance to the Community;

(3) in 1989, the Resolution Trust Corporation acquired the Saddleback Property as a receiver for the Sun City Savings and Loan Association;

(4) after the Saddleback Property was noticed for sale by the Resolution Trust Corporation, a dispute between the Community and the City arose concerning the future ownership, use, and development of the Saddleback Property;

(5) the Community and the City each filed litigation with respect to that dispute, but in lieu of pursuing that litigation, the Community and the City negotiated a Settlement Agreement that—

(A) addresses the concerns of each of those parties with respect to the future use and development of the Saddleback Property; and

(B) provides for the dismissal of the litigation;

(6) under the Settlement Agreement, subject to detailed use and development agreements—

(A) the Community will purchase a portion of the Saddleback Property; and

(B) the City will purchase the remaining portion of that property; and

(7) the Community and the City agree that the enactment of legislation by Congress to ratify the Settlement Agreement is necessary in order for—

(A) the Settlement Agreement to become effective; and

(B) the United States to take into trust the property referred to in paragraph (6)(A) and make that property a part of the Reservation.

(b) PURPOSES.—The purposes of this Act are—

(1) to approve and confirm the Settlement, Release, and Property Conveyance Agreement executed by the Community, the City, and the Resolution Trust Corporation;

(2) to ensure that the Settlement Agreement (including the Development Agreement, the Use Agreement, and all other associated ancillary agreements and exhibits)—

(A) is carried out; and

(B) is fully enforceable in accordance with its terms, including judicial remedies and binding arbitration provisions; and

(3) to provide for the taking into trust by the United States of the portion of the Saddleback Property purchased by the Community in order to make that portion a part of the Reservation.

SEC. 3. DEFINITIONS.

For the purposes of this Act, the following definitions shall apply:

(1) CITY.—The term ''City'' means the city of Scottsdale, Arizona, which is a municipal corporation in the State of Arizona.

(2) COMMUNITY.—The term ''Community'' means the Salt River Pima-Maricopa Indian Community, which is a federally recognized Indian tribe.

(3) DEDICATION PROPERTY.—The term ''Dedication Property'' means a portion of the Saddleback Property, consisting of approximately 27 acres of such property, that the City will acquire in accordance with the Settlement Agreement.

(4) DEVELOPMENT AGREEMENT.—The term ''Development Agreement'' means the agreement between the City and the Community, executed on September 11, 1995, that sets forth conditions and restrictions that—

(A) are supplemental to the Settlement, Release and Property Conveyance Agreement referred to in paragraph (11)(A); and

(B) apply to the future use and development of the Development Property.

(5) DEVELOPMENT PROPERTY.—The term ''Development Property'' means a portion of the Saddleback Property, consisting of approximately 211 acres, that the Community will acquire in accordance with the Settlement Agreement.

(6) MOUNTAIN PROPERTY.—The term ''Mountain Property'' means a portion of the Saddleback Property, consisting of approximately 365 acres, that the Community will acquire in accordance with the Settlement Agreement.

(7) PRESERVATION PROPERTY.—The term ''Preservation Property'' means a portion of the Saddleback Property, consisting of approximately 98 acres, that the City will acquire in accordance with the Settlement Agreement.

(8) RESERVATION.—The term ''Reservation'' means the Salt River Pima-Maricopa Indian Reservation.

(9) SADDLEBACK PROPERTY.—The term ''Saddleback Property'' means a tract of land that—

(A) consists of approximately 701 acres within the city of Scottsdale, Arizona; and

(B) includes the Dedication Property, the Development Property, the Mountain Property, and the Preservation Property.

(10) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(11) SETTLEMENT AGREEMENT.—The term ''Settlement Agreement''—

(A) means the Settlement, Release and Property Conveyance Agreement executed on September 11, 1995, by the Community, the City, and the Resolution Trust Corporation (in its capacity as the Receiver for the Sun State Savings and Loan Association, F.S.A.); and

(B) includes the Development Agreement, the Use Agreement, and all other associated ancillary agreements and exhibits.

(12) USE AGREEMENT.—The term ''Use Agreement'' means the agreement between the City and the Community, executed on September 11, 1995, that sets forth conditions and restrictions that—

(A) are supplemental to the Settlement, Release and Property Conveyance Agreement referred to in paragraph (11)(A); and

(B) apply to the future use and development of the Mountain Property.

SEC. 4. APPROVAL OF AGREEMENT.

The Settlement Agreement is hereby approved and ratified and shall be fully enforceable in accordance with its terms and the provisions of this Act.

SEC. 5. TRANSFER OF PROPERTIES.

(a) IN GENERAL.—Upon satisfaction of all conditions to closing set forth in the Settlement Agreement, the Resolution Trust Corporation shall transfer, pursuant to the terms of the Settlement Agreement—

(1) to the Secretary, the Mountain Property and the Development Property purchased by the Community from the Resolution Trust Corporation; and

(2) to the City, the Preservation Property and the Dedication Property purchased by the City from the Resolution Trust Corporation.

(b) TRUST STATUS.—The Mountain Property and the Development Property transferred pursuant to subsection (a)(1) shall, subject to sections 6 and 7—

(1) be held in trust by the United States for the Community; and

(2) become part of the Reservation.

(c) LIMITATION ON LIABILITY.—Notwithstanding any other provision of law, the United States shall not incur any liability for conditions, existing prior to the transfer, on the parcels of land referred to in subsection (b) to be transferred to the United States in trust for the Salt River Pima-Maricopa Indian Community.

(d) RECORDS.—Upon the satisfaction of all of the conditions of closing set forth in the Settlement Agreement, the Secretary shall file a plat of survey depicting the Saddleback Property (that includes a depiction of the Dedication Property, the Development Property, the Mountain Property, and the Preservation Property) with—

(1) the office of the Recorder of Maricopa County, Arizona; and

(2) the Titles and Records Center of the Bureau of Indian Affairs, located in Albuquerque, New Mexico.

SEC. 6. LIMITATIONS ON USE AND DEVELOPMENT.

Upon the satisfaction of all of the conditions of closing set forth in the Settlement Agreement, the properties transferred pursuant to paragraphs (1) and (2) of section 5(a) shall be subject to the following limitations and conditions on use and development:

(1) PRESERVATION PROPERTY.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the Preservation Property shall be forever preserved in its natural state for use only as a public park or recreation area that shall—

(i) be utilized and maintained for the purposes set forth in section 4(C) of the Settlement Agreement; and

(ii) be subject to the restrictions set forth in section 4(C) of the Settlement Agreement.

(B) SHEA BOULEVARD.—At the sole discretion of the City, a portion of the Preservation Property may be used to widen, reconfigure, repair, or reengineer Shea Boulevard in accordance with section 4(D) of the Settlement Agreement.

(2) DEDICATION PROPERTY.—The Dedication Property shall be used to widen, reconfigure, repair, or reengineer Shea Boulevard and 136th Street, in accordance with sections 4(D) and 7 of the Settlement Agreement.

(3) MOUNTAIN PROPERTY.—Except for the areas in the Mountain Property referred to as Special Cultural Land in section 5(C) of the Settlement Agreement, the Mountain Property shall be forever preserved in its natural state for use only as a public park or recreation area that shall—

(A) be utilized and maintained for the purposes set forth in section 5(C) of the Settlement Agreement; and

(B) be subject to the restrictions set forth in section 5(C) of the Settlement Agreement.

(4) DEVELOPMENT PROPERTY.—The Development Property shall be used and developed for the economic benefit of the Community in accordance with the provisions of the Settlement Agreement and the Development Agreement.

SEC. 7. AMENDMENTS TO THE SETTLEMENT AGREEMENT.

No amendment made to the Settlement Agreement (including any deviation from an approved plan described in section 9(B) of the Settlement Agreement) shall become effective, unless the amendment—

(1) is made in accordance with the applicable requirements relating to the form and approval of the amendment under sections 9(B) and 34 of the Settlement Agreement; and

(2) is consistent with the provisions of this Act.

PHILANTHROPY PROTECTION ACT

Mr. LOTT. Madam President, I ask unanimous consent the Senate proceed to the immediate consideration of H.R. 2519, just received from the House.

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

The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 2519) to facilitate contributions to charitable organizations by codifying certain exemptions from the Federal securities laws, and for other purposes.

The Senate proceeded to consider the bill.

Mr. PRESSLER. Madam President, I am pleased that the Senate today is taking action on H.R. 2519, the Philanthropy Protection Act, and H.R. 2525, the Charitable Gift Annuity Anti-trust Relief Act. Both bills are very important to our Nation's charitable organizations. These bills deserve our full support.

America's charities are America's inspiration. They serve those in physical and spiritual distress. They educate our children and adults so that they can become self-sufficient. They enrich our lives through music and the arts. They seek cures for diseases that plague humanity. They encourage the preservation of our environment. As our Government finally begins to tighten its fiscal belt, America's charities will be expected to assume an even greater responsibility. As they have done on so many occasions during war and peace, depression and prosperity, America's charities are prepared to answer the call for assistance.

America's charities are a vital foundation of our Nation. However, today, they are under unwarranted and life-threatening assault. As many of my colleagues know, an ominous class action lawsuit in a Federal court in Texas has put American philanthropy in jeopardy. Specifically, this lawsuit disingenuously attempts to apply securities and antitrust laws meant to govern commercial enterprises to fundraising and money-management techniques of charities. This is an application of Federal law never contemplated by Congress.

This lawsuit has been an issue of great concern to this Congress. To their credit, my friends and colleagues from Texas and Connecticut, Senators HUTCHISON and DODD, identified this problem early on and introduced S. 978 to address the issues raised in the lawsuit and clarify the role of the securities laws and the antitrust laws with respect to charitable organizations. I am pleased to be one of a number of bipartisan cosponsors of this legislation. I am even more pleased that the Senate is taking action to pass this legislation. Quick action to enact this legislation would free donors to make year-end gifts without fear of becoming entangled in a stressful, costly lawsuit. Further, enactment of this bill would free charities to do what they do best: serve the people of America. With the beginning of the holiday season—the peak period of charitable giving—passage of this bill could not have come at a better time.

I also would like to commend our colleagues in the House of Representatives. They took action last night and passed both H.R. 2519 and H.R. 2525 unanimously. I applaud the House leadership and the bipartisan sponsors of this bill, including Representatives HYDE, CONYERS, BLILEY, FIELDS, DINGELL and MARKEY, among others, for working together to pass the bill as part of the House's Correction Day calendar.

Action is needed. Millions of dollars of donations that should be going to charitable programs are instead being wasted on attorneys' fees and needless litigation. We must not stand idly by while America's charitable organizations are looted. Both bills make clear that charities that go astray of both the law and the public trust will be held accountable to the full extent of the law. Both bills would end unfair punishment of those charities that play by the rules and pursue their missions in good faith. Both bills restore fairness to the law and remove the cloud over charitable giving. Today, we can send an important signal to our citizens that in their time of need, America's charities will still be there for them and future generations.

Again, I commend my colleagues from Texas and Connecticut, Senators HUTCHISON and DODD, and all the cosponsors of S. 978, for coming together in a demonstration of bipartisan support for America's charities.

I urge all my colleagues to support immediate passage of H.R. 2519 and H.R. 2525.

Mr. LOTT. I ask unanimous consent the bill be considered and deemed read a third time and passed, the motion to reconsider be laid upon the table, and any statements relating to the bill appear at appropriate place in the RECORD.

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

The bill (H.R. 2519) was deemed read three times and passed.

CHARITABLE GIFT ANNUITY ANTITRUST RELIEF ACT

Mr. LOTT. Madam President, I ask unanimous consent the Senate proceed to the immediate consideration of H.R. 2525, just received from the House.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 2525) to modify the operation of the antitrust laws, and of State laws similar to the antitrust laws, with respect to charitable gift annuities.

The Senate proceeded to consider the bill.

Mr. LOTT. I ask unanimous consent the bill be considered and deemed read a third time and passed, the motion to reconsider be laid upon the table, and any statements relating to the bill appear at the appropriate place in the RECORD.

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

The bill (H.R. 2525) was deemed read three times and passed.

ORDERS FOR THURSDAY, NOVEMBER 30, 1995

Mr. LOTT. Madam President, I ask unanimous consent now that when the Senate completes its business today it stand in adjournment until the hour of 10 a.m. on Thursday, November 30; that following the prayer, the Journal of proceedings be deemed approved to date, no resolutions come over under the rule, the call of the calendar be dispensed with, the morning hour be deemed to have expired, time for the two leaders be reserved for their use later in the day, and there then be a period for morning business until the hour of 2 p.m. with Senators permitted to speak for up to 5 minutes each; with the following exceptions: Senator

DASCHLE or designee, 60 minutes; Senator THOMAS for 60 minutes.

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

PROGRAM

Mr. LOTT. Madam President, following the morning business on Thursday it will be the intention of the majority leader to turn to any legislative matter that can be cleared for action including the HUD–VA appropriations conference report if received from the House. Therefore votes could occur.

ADJOURNMENT UNTIL 10 A.M. TOMORROW

Mr. LOTT. If there is no further business to come before the Senate, I now ask unanimous consent the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 7:30 p.m., adjourned until Thursday, November 30, 1995, at 10 a.m.