into the United States of diamonds unless the countries exporting the diamonds have in place a system of controls on rough diamonds, and for other purposes.

S. 1140

At the request of Mr. HATCH, the name of the Senator from Delaware (Mr. CARPER) was added as a cosponsor of S. 1140, a bill to amend chapter 1 of title 9, United States Code, to provide for greater fairness in the arbitration process relating to motor vehicle franchise contracts.

S. 1860

At the request of Mr. DORGAN, the name of the Senator from Montana (Mr. BURNS) was added as a cosponsor of S. 1860, a bill to reward the hard work and risk of individuals who choose to live in and help preserve America's small, rural towns, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. WARNER:

S. 1957. A bill to amend the Internal Revenue Code of 1986 to provide for additional designations of renewal communities; to the Committee on Finance.

Mr. WARNER. Mr. President, I am pleased today to introduce legislation that will provide for greater economic growth, job creation and improve the availability of affordable housing in some of our Nation's most distressed communities. The legislation calls for the designation of a second round of Renewal Communities.

The Renewal Communities program is an economic development initiative that was included in the Fiscal Year 2001 Consolidated Appropriations Act. The communities designated under the program benefit from a variety of tax incentives designed to attract new companies and enhance business opportunities in an area. Wage credits, a zero capital gains rate on new investments and similar tax breaks for business related expenditures will augment the efforts of State and local governments to promote job growth and restore economic stability in their communities.

The Consolidated Appropriations Act signed into law on December 21, 2000, provided for the designation of 40 Renewal Communities. The Department of Housing and Urban Development was responsible for the selection and designation of the new RCs. The Department announced the list of 40 communities, which will share over $17 billion in tax incentives, on January 24, 2002.

The designations are based on poverty rates, median income, and unemployment rates in the community. The most recent Department of Commerce census data available during the application process was from 1990. This was an issue of timing as passage of the legislation overlapped with the compilation of new census data in 2000.

The use of the 1990 census data, however, severely limited the ability of many cities and localities which may be eligible based on the most recent data. The 1990 data does not reflect the economic shifts which have taken place over the last decade throughout the country.

In the Commonwealth of Virginia, many communities have been devastated economically by plant closings since the census in 1990. The unemployment figures continue to rise when more businesses are forced to close down as the adverse financial effects begin to filter through the community.

My legislation would provide for the designation of an additional twenty renewal communities with the requirement that the most recent 2000 census data would be used. I believe that a second round of Renewal Community designations would be appropriate and fair to those communities excluded by the limits of timing out of their control.

We cannot move forward as a Nation when the gap in the economy stability of our local communities grows deeper and they are left behind. This is something the Federal Government can do to stimulate the economy from the ground up and at the same time help those who need it most.

I encourage my colleagues to support this initiative. I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 1957

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

SECTION 1. ADDITIONAL DESIGNATIONS OF RENEWAL COMMUNITIES.

(a) IN GENERAL.—Section 1400E of the Internal Revenue Code of 1986 (relating to designation of renewal communities) is amended by redesignating subsection (f) as subsection (g) and by inserting after subsection (e) the following new subsection:

''(f) ADDITIONAL DESIGNATIONS PERMITTED.—

''(1) IN GENERAL.—In addition to the areas designated under subsection (a), the Secretary of Housing and Urban Development may designate in the aggregate an additional 20 nominated areas as renewal communities under this section, subject to the availability of eligible nominated areas. Of that number, not less than 5 shall be designated in areas described in subsection (a)(2)(B).

''(2) PERIOD DESIGNATIONS MAY BE MADE AND TAKE EFFECT.—A designation may be made under this subsection after the date of the enactment of this subsection and before January 1, 2003. Subject to subparagraphs (B) and (C) of subsection (b)(1), such designations shall remain in effect during the period beginning on January 1, 2003, and ending on December 31, 2010.

''(3) MODIFICATIONS TO ELIGIBILITY DETERMINATIONS.—The rules of this section shall apply to designations under this subsection, except that population and poverty rate shall be determined by using the most recent census data available.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

By Mr. MCCAIN:

S. 1958. A bill to provide a restructured and rationalized rail passenger system that provides efficient service on viable routes; to eliminate budget deficits and management inefficiencies at Amtrak through the establishment of an Amtrak Control Board; to allow for the privatization of Amtrak; to increase the role of State and private entities in rail passenger service; and, to promote competition and improve rail passenger service opportunities; to the Committee on Commerce, Science, and Transportation.

● Mr. MCCAIN. Mr. President, the time has come for us to have an open debate to consider the future of rail passenger service in this Nation. Given Amtrak's financial situation, which is extremely precarious, I strongly believe we must work together to pass legislation this year that will provide for a restructured, revitalized, and streamlined rail passenger network. This will be no easy task. It will take commitments by all parties, including the Administration, Congress, Amtrak, states and municipalities, and the private sector.

No one can argue with the fact that Amtrak is in a financial crisis, with growing and substantial debt obligations already totaling over $3.3 billion. The Department of Transportation Inspector General, DOT–IG, issued a report just two weeks ago which found that Amtrak experienced its largest losses in history in Fiscal Year 2002. Specifically, the DOT–IG found ''Amtrak lost $1.1 billion last year'' and ''Amtrak is no closer to operating self-sufficiency now than it was in 1997.''

The Amtrak Reform and Accountability Act of 1997, provided Amtrak with the statutory reforms Amtrak said were needed to enable it to address its financial and operational problems existing at the time. In turn, the Act directed Amtrak to reach operational self-sufficiency five years after enactment, which is December 2, 2002. The Act also established the Amtrak Reform Council, ARC, to oversee Amtrak and notify the Congress if it found Amtrak would not be able to meet its statutory obligations.

Despite repeated press statements and testimony by Amtrak officials over the past four years that Amtrak was well on its way to fulfilling its statutory directives, on November 9, 2001, the ARC issued a finding that Amtrak will not be operationally self-sufficient as required by law. The ARC found there are major inherent flaws and weaknesses in Amtrak's institutional design and that it must be restructured. The recent DOT–IG report confirmed the ARC's finding that Amtrak would not meet its statutory mandate.

Finally, two weeks ago, even Amtrak officials admitted it cannot live up to the claims they had been making. At a recent press conference Amtrak's President stated, ''Everybody knows that you can't make a profit while running a network of unprofitable trains''. Unfortunately, Amtrak officials are

seeking to place blame for its financial problems everywhere other than where it most justly belongs.

As I mentioned, the 1997 Reform Act provided Amtrak with the tools it said it needed to reinvent itself. It was provided labor, liability, and procurement reforms. The Act even eliminated the mandated route structure established in the 1970 act that created Amtrak, and authorized Amtrak to run like a private business.

Following the Senate's passage of the Act in 1997, Amtrak's President at the time, Tom Downs, sent a letter dated November 5, 1997 to Senator HOLLINGS and myself praising the compromise legislation. He stated that, ''enactment of the Amtrak Reform and Revitalization Act of 1997 would be the single most significant action the Congress can take to aid Amtrak in achieving operating self-sufficiency by 2002.'' Mr. Downs further commended ''The legislation reforms contained in the bill will allow Amtrak to operate in a more businesslike, cost effective manner, thus allowing greater productivity and increased savings.''

Although Amtrak has received over $5 billion in Federal assistance since the reform bill's enactment, and received the authority to implement management and structural changes, little if anything has been accomplished since the Reform Act's enactment. Amtrak loses money on almost all of its 41 routes, but instead of cutting even one unprofitable route, Amtrak added routes. One such route initiated in Janesville, WI, resulted in a per passenger subsidy of over $1,000.00. Where is the rationale in such a business decision? Moreover, Amtrak's debt load has tripled since we approved the Reform Act, and now amounts to over $3.3 billion. Clearly, Amtrak officials did not take the statutory mandates seriously.

Today, I am introducing legislation to fundamentally transform rail passenger transportation in America. The bill offers a new approach to reform Amtrak's 30-year subsidy program that has funded rail passenger service. It is designed to promote rail passenger service on viable routes or where States will provide support when it is considered a necessary form of public transportation. That does not equate to a route in every Congressional district and may not even equate to a route in every State, but nor, it should be noted, does the present ''national system.''

The legislation I am offering today is one approach for how our Nation's rail passenger system can be permitted to evolve. I recognize that it may not garner the support of every member, but I encourage my colleagues to approach the debate on the future of rail passenger service with an open mind. The American public demands more than the status quo. We should as well. The public's expectations must be balanced with the level of financial commitment that the Nation can afford. I ask that a summary of the Rail Passenger Improvement Act of 2002 be printed in the RECORD immediately following my remarks.

I don't believe that the measure I am introducing could be the only approach that Congress considers. There are many proposals and ideas that merit our consideration. For example, on February 7th, the Amtrak Reform Council submitted its report on a restructuring and rationalization plan. I hope the Congress will give careful consideration to the ARC's proposal. Other ideas to restructure Amtrak's route system include the creation of a Route Closure Commission modeled after the Department of Defense's Base Realignment and Closure Commission. This is an idea that has been raised in recent years and should not be disregarded. Above all, we must get to work now and determine how best to address Amtrak's financial and operational crisis.

While it might seem easier to simply throw more money at Amtrak instead of making tough policy decisions, we would be failing in our Congressional responsibilities if we were to do this. To put rail passenger service back on track in this country, we need to address a number of tough questions. For example, what is the future for intercity rail passenger transportation? Where does it attract passengers and where doesn't it? Does rail passenger service have to equate to ''Amtrak'' or can we accept the fact that after 30 years, it is time to find a new approach? Where might high-speed rail service actually attract enough passengers to be economically viable? How does it fit into our national transportation system? What financial obligation will we be imposing on American taxpayers to pay for rail passenger service and what can they realistically expect for their payments?

I have continually doubted Amtrak could live up to the promises it has made over the years. I reached this conclusion after years of listening to promises from Amtrak officials about what it could deliver if Congress gave it more money. Those promises have been broken time after time. There has been an endless flow of subsidy requests from Amtrak since its creation 30 years ago, even though it was to be free of all Federal assistance two years after it was established. Instead, Amtrak has received over $25 billion in direct subsidies.

The ARC, the DOT–IG, the General Accounting Office (GAO), and others warned us that Amtrak was not going to live up to the rosy scenarios it had been painting over the past several years. Ironically, while we are criticizing private auditors for failing to ensure disclosure of the true financial picture of Enron, Congress has had clear indication from public auditors that Amtrak was not financially solvent but chose to ignore those warnings. Shouldn't we halt the double standard with respect to our reaction to public and private audit findings?

We all need to face the fact that Amtrak is in dire financial straits and action must be taken once and for all to address the underlying problems with Amtrak. The findings presented by the ARC and the DOT–IG make it clear that Amtrak's Board and management have been unable to execute the changes that need to be taken to turn Amtrak's finances around. As the DOT–IG recently stated: ''Amtrak is no closer to operating self-sufficiency now than it was in 1997.''

Amtrak's management has recently started to question publicly the statutory requirement for Amtrak to achieve operational self-sufficiency. At a press conference held last week when Amtrak admitted it was not living up to its repeated claims of success, Amtrak's President referred to the self-sufficiency deadline as an ''impractical, inappropriate and destructive concept to move forward with.'' I find this statement shockingly untimely.

In the four years that have passed since the Reform Act became law, Amtrak officials have repeatedly said they were on the ''glide-path to operational self-sufficiency.'' Not once in testimony before Congress did Amtrak officials raise concerns now held by Amtrak's President that the once highly regarded Reform Act was no more than an ''impractical, inappropriate and destructive concept'' that would hamper Amtrak's ability to produce results and turn Amtrak around. So I have to ask, why now? Were these same views held by Amtrak officials during the reform bill's enactment? That would not appear to be the case given the November 1997 letter I quoted from earlier. Why haven't we heard Mr. Warrington's critical views until now?

Again, the Reform Act provided the statutory reforms that Amtrak requested so it could operate more like a private business. Why has its President suddenly decided to call its mandates into question? Maybe it's because management has made no progress towards meeting the requirements mandated by the law, requirements that Amtrak agreed to in exchange for the reforms it requested and was granted? Requirements, that until now, Amtrak said it would meet.

Since we now know Amtrak officials cannot make the tough decisions necessary to improve Amtrak's operating and financial condition, the legislation I am proposing creates an Amtrak Control Board, modeled after the D.C. Control Board that was so successful in turning around the financial crisis of the Government of the District of Columbia. The Amtrak Control Board would be directed to help address Amtrak's financial crisis and facilitate Amtrak's privatization.

Moreover, I believe we need to allow the States to take a greater role in determining where rail passenger service should be provided. Perhaps it is only in the Northeast, or maybe just on State-supported corridors. To help States retain passenger rail service

where they believe it is needed, I also think that we should allow the States to spend their Federal transportation dollars on rail passenger service.

In some areas of the country, such as the Northeast and on the West Coast where service is supported by State contributions, rail passenger service seems to be working. We cannot ignore the fact, however, that all but two of Amtrak's intercity lines operate at a substantial financial loss. And while Amtrak has experienced an increase in its ridership, the actual ridership numbers are dismal compared to other passenger modes, including intercity bus transportation and air travel. After 30 years and over $25 billion of taxpayers' investment, Amtrak is used by less than 1 percent of the traveling public.

Our urban areas are facing ever-increasing transportation congestion. Americans are spending more and more time sitting in traffic as they try to get to and from work. And each and every one of us has experienced first hand the frustrations of flight delays due to new security measures and capacity limitations in our aviation system. It is our responsibility to work to remedy these problems by developing and enacting sound federal transportation policies.

Amtrak is a failed experiment. While the legislation I am offering may not be the approach the majority of the members will support, I assure my colleagues that I will do everything in my power to halt the historical authorization pattern that has taken place for 30 years. I will strongly oppose any measure simply to reauthorize Amtrak in exchange for Amtrak promises. If we do that again, in a few years Amtrak will be back again explaining why it was unable to fulfill its promises and Amtrak will be seeking yet even more money and making even more promises. This same pattern has continued for 30 years.

The Rail Passenger Service Act of 1970, which created the National Rail Passenger Corporation, also known as Amtrak, to free the freight industry from the burden of running passenger trains, was enacted with the intent to provide Amtrak Federal support for only two years. Clearly, that did not occur. After receiving appropriations for $40 million in direct grants, $100 million in loan guarantees, in addition to capital acquired from participating railroads, Amtrak was unable to fulfill the intent of the authorizing legislation. Two years later, Amtrak was back before Congress asking for more money in exchange for more promises.

By 1978, after four trips to Congress to ask for more Federal money, Amtrak had received $2.5 billion in federal funding. But that level of funding was still not enough. When Amtrak came back seeking more Federal assistance, Congress responded like it always had. It passed legislation authorizing millions for operating, capital and debt reduction expenses. In exchange for this funding, Amtrak agreed to be operated and managed as a for-profit corporation and to turn around its money losing ways. Again, Amtrak failed to fulfill its promises.

This pattern has continued during the past 30 years. Amtrak has come to Congress year after year seeking a handout. Each time, Amtrak has made promises in return for more federal assistance. Each time, Amtrak has failed to achieve what was expected. Enough is enough.

It is interesting to note that before the 1978 law was enacted, the GAO warned that Amtrak would have to make serious cuts in its route structure if it was to avoid continual dependence on Federal subsidies. And here we are nearly 25 years later and the GAO and the DOT–IG are repeating these same realities. Is the Congress finally going to give credence to these auditors' findings?

If rail passenger service is ever going to be successful, we must take action to provide for a restructured and rationalized system. We need to hear from the Administration, the States, and the American public in order to develop sound Federal policy to permit safe, efficient, and cost-effective rail passenger service in areas that can attract riders. Now is the time for all interested parties to come together and chart a new course for intercity rail passenger transportation.

The summary follows.

THE RAIL PASSENGER SERVICE IMPROVEMENT ACT—SUMMARY OF MAJOR PROVISIONS

Purpose: to enable the emergence of a new rail passenger system that would be overseen by the Department of Transportation, but operated by competing franchises, including Amtrak; to require Amtrak's restructuring, financial stabilization and privatization through the creation of an Amtrak Control Board; and to require States to play a bigger role with regard to routing decisions and financial responsibilities. Specifically the legislation:

Directs the Secretary of Transportation to establish a Rail Passenger Development and Franchising Office within the Federal Railroad Administration (FRA). Beginning October 1, 2003, the Secretary would be authorized to contract out rail passenger service to franchises that meet specified safety and liability requirements, provided such operations would not result in a significant downgrade in rail freight service. Franchises would be required to demonstrate efforts to reach mutual agreements with freight carriers to obtain trackage access prior to being awarded a contract.

Directs Amtrak to restructure into three separate subsidiaries to be managed as for-profit businesses with transparent accounting systems: Amtrak Operations, Amtrak Maintenance, and Intercity Rail Reservations. Each subsidiary would be privatized no later than four years after enactment.

Establishes an Amtrak Control Board, modeled after the DC Control Board, to help address Amtrak's financial crisis. The Amtrak Control Board would direct Amtrak's operational restructuring, approve budgets and financial plans, and oversee privatization.

Requires States to play a greater role, both in route decisions and financial contributions, to allow for a more utilized route system to evolve, with service provided on viable routes or where States contribute to cover operating losses. Beginning October 1, 2003, Amtrak would halt service over any route where revenues do not cover expenses unless states contribute financial support to cover losses.

Gives States flexibility to use highway trust fund dollars on rail passenger service at each state's discretion.

Authorizes funding to address rail passenger security and tunnel life-safety needs.

Authorizes funding for Amtrak operating and Railroad Retirement obligations on a reduced sliding scale. Authorizes funding for the Secretary of Transportation to address rail passenger capital costs and the backlog of infrastructure investment identified by the DOT-Inspector General to bring the Northeast Corridor up to a ''state of good repair.'' Other users and states along the corridor would also contribute to capital costs, much like States must contribute toward highway and airport infrastructure. In exchange for eliminating financial obligations, Amtrak must give up rights and ownership to the Northeast Corridor for which the Secretary already holds a 999-year mortgage.●

By Mr. HARKIN (for himself, Mr. FITZGERALD, and Mr. JOHNSON):

S. 1960. A bill to amend the Biomass Research and Development Act of 2000 to encourage production of biobased energy products, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

● Mr. HARKIN. Mr. President, I am introducing today the Biobased Energy Incentives Act of 2002. I am pleased to be joined by Senators FITZGERALD and JOHNSON. This legislation amends the Biomass Research and Development Act of 2000 and establishes a biobased energy incentive program within the Department of Agriculture.

The program provides payments to eligible biofuels producers through the Commodity Credit Corporation for using certain commodities to produce ethanol and biodiesel. All ethanol and biodiesel producers will be eligible to participate in the program. However, payment levels will be a little higher for smaller producers, giving them a better chance to compete with their larger counterparts. Payments to any one producer will be capped at 7 percent of the total funds made available for a fiscal year.

This legislation comes at the right time. The Department of Agriculture has run a bioenergy program on a pilot basis for the past two years. It has shown very promising initial results. In Iowa, for instance, the program has helped bring down the price of soy diesel. Cedar Rapids now has dozens of vehicles that run on a blend of soy and regular diesel. Over the same time that this program has operated, the U.S. ethanol industry has established production records almost every month. Nearly 20 new ethanol plants began construction last year, assuring continued expansion of the industry.

Yet there is no guarantee the Department will continue the program. A continuation is not in the Administration's budget proposal for fiscal year 2003. We can't afford to see this type of initiative flounder or, worse yet, end.

Our bill, if passed, will require the Department of Agriculture to run a bioenergy program indefinitely with secure funding.

The benefits of this legislation are obvious. Increased renewable fuel production lessens our dependence on foreign oil, provides environmental and public health gains, bolsters farm income, creates jobs and boosts economic growth, especially in rural areas. This also contributes to a sound homeland security strategy. The Nation must become energy independent, and domestically produced renewable fuels, along with other forms of renewable energy like wind power and biomass, play an important part in this endeavor.

I want to thank Senator FITZGERALD and Senator JOHNSON for co-sponsoring this legislation with me. Their leadership in this area will be essential in moving the bill forward. I am hopeful we can pass this bill quickly to help secure a brighter future for our nation's farmers and fellow citizens.

I ask that the text of the bill be printed in the RECORD.

The bill follows.

S. 1960

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 ''Biobased Energy Incentive Act of 2002''.

SEC. 2. PRODUCTION OF BIOBASED ENERGY PRODUCTS.

The Biomass Research and Development Act of 2000 (7 U.S.C. 7624 note; Public Law 106–224) is amended—

(1) by redesignating section 310 as section 311; and

(2) by inserting after section 309 the following:

''SEC. 310. PRODUCTION OF BIOBASED ENERGY PRODUCTS.

''(a) DEFINITIONS.—In this section:

''(1) BIOBASED ENERGY PRODUCT.—The term 'biobased energy product' means biodiesel or ethanol fuel.

''(2) BIODIESEL.—The term 'biodiesel' means a monoalkyl ester that meets the requirements of ASTM D6751.

''(3) ELIGIBLE COMMODITY.—The term 'eligible commodity' means wheat, corn, grain sorghum, barley, oats, rice, soybeans, sunflower seed, rapeseed, canola, safflower, flaxseed, mustard, crambe, sesame seed, cottonseed, and cellulosic commodities (such as hybrid poplars and switch grass).

''(4) ELIGIBLE PRODUCER.—The term 'eligible producer' means a producer that—

''(A) uses an eligible commodity to produce a biobased energy product; and

''(B) enters into a contract with the Secretary under subsection (b)(2).

''(5) NEW PRODUCER.—The term 'new producer' means an eligible producer that has not used an eligible commodity to produce a biobased energy product during the preceding fiscal year.

''(b) BIOBASED ENERGY INCENTIVE PROGRAM.—

''(1) ESTABLISHMENT.—The Secretary shall establish a biobased energy incentive program under which the Secretary shall make payments to eligible producers to promote the use of eligible commodities to produce biobased energy products.

''(2) CONTRACTS.—

''(A) IN GENERAL.—To be eligible to receive a payment, an eligible producer shall enter into a contract with the Secretary under which the producer shall agree to increase the use of eligible commodities to produce biobased energy products during 1 or more fiscal years.

''(B) QUARTERLY PAYMENTS.—Under a contract—

''(i) the eligible producer shall agree to increase the use of eligible commodities to produce biobased energy products during each fiscal year covered by the contract; and

''(ii) the Secretary shall make payments to the eligible producer for each quarter of the fiscal year.

''(3) AMOUNT.—Subject to paragraphs (6) through (8), the amount of a payment made to an eligible producer for a fiscal year under this subsection shall be determined by multiplying—

''(A) the payment quantity for the fiscal year determined under paragraph (4); by

''(B) the payment rate determined under paragraph (5).

''(4) PAYMENT QUANTITY.—

''(A) IN GENERAL.—Subject to subparagraph (B), the payment quantity for payments made to an eligible producer for a fiscal year under this subsection shall equal the difference between—

''(i) the quantity of eligible commodities that the eligible producer agrees to use, under the contract entered into with the Secretary, to produce biobased energy products during the fiscal year; and

''(ii) the quantity of eligible commodities that the eligible producer used to produce biobased energy products during the preceding fiscal year.

''(B) NEW PRODUCERS.—The payment quantity for payments made to a new producer for the first fiscal year of a contract under this subsection shall equal 25 percent of the quantity of eligible commodities that the eligible producer uses to produce biobased energy products during the fiscal year.

''(5) PAYMENT RATE.—

''(A) IN GENERAL.—Subject to subparagraph (B), the payment rate for payments made to an eligible producer under this subsection for the use of an eligible commodity shall be determined by the Secretary to compensate the eligible producer for the local value of—

''(i) in the case of corn, 1 bushel of corn for each 3 bushels of additional corn that is used to produce a biobased energy product; and

''(ii) in the case of each other eligible commodity, an equivalent quantity determined by the Secretary.

''(B) SMALL-SCALE PRODUCERS.—The payment rate for payments made to an eligible producer that has an annual capacity of less than 60,000,000 gallons of biobased energy products shall be at least 25 percent higher than the payment rate for other eligible producers, as determined by the Secretary.

''(6) PRORATION.—If the amount made available for a fiscal year under subsection (d)(2)(A) is insufficient to allow the payment of the amount of the payments that eligible producers (that apply for the payments) otherwise would have a right to receive under this subsection, the Secretary shall prorate the amount of the funds among all such eligible producers.

''(7) OVERPAYMENTS.—If the total amount of payments that an eligible producer receives for a fiscal year under this section exceeds the amount the eligible producer should have received under this subsection, the producer shall repay the amount of the overpayment to the Secretary, plus interest (as determined by the Secretary).

''(8) LIMITATION.—No eligible producer shall receive more than 7 percent of the total amount made available for a fiscal year under subsection (d)(2)(A).

''(9) RECORDKEEPING AND MONITORING.—To be eligible to receive a payment under this subsection, an eligible producer shall—

''(A) maintain for at least 3 years records relating to the production of biobased energy products; and

''(B) make the records available to the Secretary to verify eligibility for the payments.

''(10) OTHER REQUIREMENTS.—To be eligible to receive a payment under this subsection, an eligible producer shall meet other requirements of Federal law (including regulations) applicable to the production of biodiesel or ethanol fuel.

''(c) AVAILABILITY OF BIOBASED ENERGY PRODUCTS.—The Secretary shall establish a program to encourage wider availability of biobased energy products to consumers of gasoline and diesel fuels.

''(d) FUNDING.—

''(1) IN GENERAL.—Subject to paragraph (2), the Secretary shall use the funds, facilities, and authorities of the Commodity Credit Corporation to carry out this section.

''(2) FISCAL YEAR LIMITATIONS.—The amount of funds of the Commodity Credit Corporation used to carry out this section shall not exceed—

''(A) in the case of subsection (b), $150,000,000 for fiscal year 2003 and each subsequent fiscal year; and

''(B) in the case of subsection (c), $10,000,000 for fiscal year 2003 and each subsequent fiscal year.''.●

By Mr. GRAHAM (for himself, Mr. CRAPO, Mr. JEFFORDS, and Mr. SMITH of New Hampshire):

S. 1961. A bill to improve financial and environmental sustainability of the water programs of the United States; to the Commerce on Environment and Public Works.

● Mr. GRAHAM. Mr. President, I ask that the text of the bill be printed in the Record.

S. 1961

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.

(a) SHORT TITLE.—This Act may be cited as the ''Water Investment Act of 2002''.

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

SEC. 2. PURPOSES.

The purposes of this Act are—

(1) to modernize State water pollution control revolving funds and the allocation for those funds to ensure that the funds distributed reflect water quality needs;

(2) to streamline State water pollution control assistance programs and State drinking water treatment assistance programs to maximize use of Federal funds and encourage maximum efficiency for States and localities;

(3) to provide additional structure to the water supply research conducted in the United States; and

(4) to ensure that the Federal Government is performing the appropriate role in analyzing regional and national water supply trends.

TITLE I—FEDERAL WATER POLLUTION CONTROL ACT MODIFICATIONS

SEC. 101. DEFINITIONS.

Section 502 of the Federal Water Pollution Control Act (33 U.S.C. 1362) is amended by adding at the end the following:

''(24) DISADVANTAGED COMMUNITY.—The term 'disadvantaged community' means a community or entity that meets affordability criteria established, after public review and comment, by the State in which the community or entity is located.

''(25) SMALL TREATMENT WORKS.—The term 'small treatment works' means a treatment works (as defined in section 212) serving a population of 10,000 or less.''.

SEC. 102. FUNDING FOR INDIAN PROGRAMS.

Section 518 of the Federal Water Pollution Control Act (33 U.S.C. 1377) is amended by striking subsection (c) and inserting the following:

''(c) RESERVATION OF FUNDS.—

''(1) IN GENERAL.—For fiscal year 1987 and each fiscal year thereafter, the Administrator shall reserve, before allotments to the States under section 604(a), not less than 0.5 percent nor more than 1.5 percent of the funds made available under section 207.

''(2) USE OF FUNDS.—Funds reserved under this subsection shall be available only for grants for the development of waste treatment management plans and for the construction of sewage treatment works to serve—

''(A) Indian tribes;

''(B) former Indian reservations in Oklahoma (as determined by the Secretary of the Interior); and

''(C) Native villages (as defined in section 3 of the Alaska Native Claims Settlement Act (43 U.S.C. 1602)).''.

SEC. 103. REQUIREMENTS FOR RECEIPT OF FUNDS.

(a) GRANTS TO STATES FOR ESTABLISHMENT OF REVOLVING FUNDS.—Section 601(a) of the Federal Water Pollution Control Act (33 U.S.C. 1381(a)) is amended by striking ''for providing assistance (1)'' and all that follows and inserting the following: ''for providing assistance for eligible projects in accordance with section 603(c).''.

(b) PROJECTS ELIGIBLE FOR ASSISTANCE.—Section 603 of the Federal Water Pollution Control Act (33 U.S.C. 1383) is amended by striking subsection (c) and inserting the following:

''(c) PROJECTS ELIGIBLE FOR ASSISTANCE.—

''(1) IN GENERAL.—Funds available to each State water pollution control revolving fund shall be used only for—

''(A) providing financial assistance to a municipality, intermunicipal, interstate, or State agency, or private utility, for construction (including costs for planning, design, associated preconstruction, and necessary activities for siting the facility and related elements) of treatment works (as defined in section 212);

''(B) implementation of a management program established under section 319;

''(C) development and implementation of a conservation and management plan under section 320;

''(D) water conservation projects or activities that provide 1 or more water quality benefits; or

''(E) reuse, reclamation, or recycling projects that provide 1 or more water quality benefits.

''(2) MAINTENANCE OF FUND.—

''(A) IN GENERAL.—The fund shall be established, maintained, and credited with repayments.

''(B) AVAILABILITY.—Any balances in the fund shall be available in perpetuity for providing financial assistance described in paragraph (1).

''(3) APPROACHES.—Projects eligible to receive assistance from a State water pollution control revolving fund under this title may include projects that use 1 or more nontraditional approaches (such as land conservation, low-impact development technologies, redevelopment of waterfront brownfields, watershed management actions, decentralized wastewater treatment innovations, and other nonpoint best management practices).''.

(c) EXTENSION OF LOANS; TYPES OF ASSISTANCE.—Section 603(d) of the Federal Water Pollution Control Act (33 U.S.C. 1383(d)) is amended—

(1) in paragraph (1)—

(A) in subparagraph (A), by striking '', at terms not to exceed 20 years'';

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

''(B)(i) annual principal and interest payments shall commence not later than 1 year after the date of completion of any project for which the loan was made; and

''(ii) except as provided in subparagraph (C), each loan shall be fully amortized not later than 20 years after the date of completion of the project for which the loan is made;'';

(C) by redesignating subparagraphs (C) and (D) as subparagraphs (D) and (E), respectively;

(D) by inserting after subparagraph (B) the following:

''(C) in the case of a disadvantaged community, 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 completion of the project; and

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

(E) in subparagraph (D) (as redesignated by subparagraph (C)), by inserting '', or, in the case of a privately owned system, demonstrate that adequate security exists,'' after ''revenue''; and

(F) in subparagraph (E) (as redesignated by subparagraph (C)), by inserting ''State loan'' before ''fund'';

(2) in paragraph (6), by striking ''and'' at the end;

(3) by redesignating paragraph (7) as paragraph (10);

(4) by inserting after paragraph (6) the following:

''(7) subject to subsection (e)(2), by a State to provide additional subsidization (including forgiveness of principal) to 1 or more treatment works for use in developing technical, managerial, and financial capacity in accordance with subsection (i);

''(8) by a State to provide additional subsidization (including forgiveness of principal) to 1 or more treatment works for a purpose other than a purpose specified in paragraph (7) or (9), except that—

''(A) for the first fiscal year that begins after the date of enactment of this paragraph and each fiscal year thereafter, the total amount of subsidization provided by a State under this paragraph shall not exceed 15 percent of the amount of all capitalization grants received by the State for the fiscal year;

''(B) notwithstanding section 204(b)(1), the State, as part of an assistance agreement between the State and each applicable treatment works, shall ensure, to the maximum extent practicable, that additional subsidization provided under this paragraph is directed through the user charge rate system to disadvantaged users within the residential user class of the community (as defined by the State based on affordability criteria and after an opportunity for public review and comment) in which the treatment works is located; and

''(C) a community that receives assistance as a disadvantaged community under paragraph (9) shall not be eligible for assistance under this paragraph;

''(9) subject to subsection (e)(2), by the State to provide additional subsidization (including forgiveness of principal) to a disadvantaged community, or to a community or entity that the State expects to become a disadvantaged community as the result of a proposed project, that receives a loan from the State under this title; and''; and

(5) in paragraph (10) (as redesignated by paragraph (3)), by striking ''that such amounts shall not exceed 4'' and inserting ''that, beginning in fiscal year 2003, those amounts shall not exceed 5''.

(d) LIMITATIONS.—Section 603(e) of the Federal Water Pollution Control Act (33 U.S.C. 1383(e)) is amended—

(1) by striking ''(e)'' and all that follows through ''If a State'' and inserting the following:

''(e) LIMITATIONS.—

''(1) PREVENTION OF DOUBLE BENEFITS.—If a State''; and

(2) by adding at the end the following:

''(2) TOTAL AMOUNT OF SUBSIDIES.—For each fiscal year, the total amount of loan subsidies made by a State under paragraphs (7) and (9) of subsection (d) may not exceed 30 percent of the amount of all capitalization grants received by the State for the fiscal year.''.

(e) CONSISTENCY WITH PLANNING REQUIREMENTS.—Section 603(f) of the Federal Water Pollution Control Act (33 U.S.C. 1383(f)) is amended—

(1) by striking ''A State may'' and inserting the following:

''(1) IN GENERAL.—A State may'';

(2) by striking ''320 of this Act.'' and inserting ''320.''; and

(3) by adding at the end the following:

''(2) COMMUNITY DEVELOPMENT.—A State that provides financial assistance from the water pollution control revolving fund of the State shall ensure that applicants for the assistance consult and coordinate with, as appropriate, agencies responsible for developing any—

''(A) local land use plans;

''(B) regional transportation improvement and long-range transportation plans; and

''(C) State, regional, and municipal watershed plans.''.

(f) PRIORITY SYSTEM REQUIREMENT.—Section 603 of the Federal Water Pollution Control Act (33 U.S.C. 1383) is amended by striking subsection (g) and inserting the following:

''(g) PRIORITY SYSTEM REQUIREMENT.—

''(1) DEFINITION OF STATE AGENCY.—In this subsection, the term 'State agency' means

the agency of a State having jurisdiction over water quality management (including the establishment of water quality standards).

''(2) DEVELOPMENT.—

''(A) IN GENERAL.—Notwithstanding section 216, each State agency shall develop and periodically update a project priority system for use in prioritizing projects that are eligible to receive funding from the water pollution control revolving fund of the State in accordance with subsection (c).

''(B) REQUIREMENTS.—In developing the project priority system, a State agency shall—

''(i) take into consideration all available water quality data for the State; and

''(ii) provide for public notice and opportunity for comment, including significant public outreach.

''(3) SUMMARY OF PROJECTS.—

''(A) IN GENERAL.—Each State agency, after public notice and opportunity for comment, shall biennially publish a summary of projects in the State that are eligible for assistance under this title.

''(B) INCLUSIONS.—The summary under subparagraph (A) shall include—

''(i) the priority assigned to each project under the priority system of the State developed under paragraph (2); and

''(ii) the funding schedule for each project, to the extent that such information is available.

''(4) STATEMENT OF POLICY.—It is the policy of Congress that projects in a State that are carried out using assistance provided under this title shall be funded, to the maximum extent practicable, through a project priority system of the State that, in the estimation of the State, is designed to achieve optimum water quality management, consistent with the public health and water quality goals and requirements of this Act.''.

(g) ADDITIONAL REQUIREMENTS FOR WATER POLLUTION CONTROL REVOLVING FUNDS.—Section 603 of the Federal Water Pollution Control Act (33 U.S.C. 1383) is amended by adding at the end the following:

''(i) TECHNICAL, MANAGERIAL, AND FINANCIAL CAPACITY FOR OPTIMAL PERFORMANCE.—

''(1) DEFINITION OF STATE AGENCY.—In this subsection, the term 'State agency' has the meaning given the term in subsection (g)(1).

''(2) STRATEGY.—

''(A) IN GENERAL.—Not later than 3 years after the date of enactment of this subsection, each State agency shall implement a strategy to assist treatment works in the State receiving assistance under this title in—

''(i) attaining and maintaining technical, managerial, operations, maintenance, and capital investments; and

''(ii) meeting and sustaining compliance with applicable Federal and State laws.

''(B) REQUIREMENTS.—In preparing the strategy described in subparagraph (A), the State shall consider, solicit public comment on, and include in the strategy—

''(i) a description of the institutional, regulatory, financial, tax, or legal factors at the Federal, State, and local levels that encourage or impair the development of technical, managerial, and financial capacity; and

''(ii) a description of the manner in which the State intends to use the authorities and resources of the State to assist treatment works in attaining and maintaining technical, managerial, and financial capacity.

''(3) DETERMINATION BY ADMINISTRATOR.—Except as provided in subsection (k), if the Administrator determines that a State agency has not developed or implemented a strategy in accordance with paragraph (2), the Administrator shall—

''(A) withhold 20 percent of each capitalization grant made to the State under this title after the date of the determination; and

''(B) permit the State a 1-year period, beginning on the date on which funds are withheld under subparagraph (A), during which the State may implement a strategy in accordance with paragraph (2).

''(4) REALLOTMENT OF FUNDS.—

''(A) IN GENERAL.—If, after the 1-year period described in paragraph (3)(B), the Administrator is not satisfied that a State has carried out adequate corrective action relating to the development and implementation of a strategy required under paragraph (2), the Administrator shall reallot all funds of the State withheld by the Administrator as of that date in accordance with subparagraph (B).

''(B) REQUIREMENTS FOR REALLOTMENT.—The Administrator shall reallot funds under subparagraph (A)—

''(i) only to States that the Administrator determines to be in compliance with this subsection; and

''(ii) in the same ratio provided under the most recent formula for the allotment of funds under this title.

''(5) CONDITION FOR RECEIPT OF ASSISTANCE.—

''(A) IN GENERAL.—Except as provided in subparagraph (B) and subsection (k), beginning on the date that is 3 years after the date of enactment of this subsection, the State shall require each treatment works that receives significant assistance under this title to demonstrate adequate technical, managerial, and financial capacity, including the establishment and implementation by the treatment works of an asset management plan (for which the Administrator may publish information to assist States in determining required content) that—

''(i) conforms to generally accepted industry practices; and

''(ii) includes—

''(I) an inventory of existing assets (including an estimate of the useful life of those assets); and

''(II) an optimal schedule of operations, maintenance, and capital investment required to meet and sustain performance objectives for the treatment works established in accordance with applicable Federal and State laws over the useful life of the treatment works.

''(B) EXCEPTION.—Notwithstanding subparagraph (A), a treatment works may receive assistance under this title if the State determines that the assistance would enable the treatment works to attain adequate technical, managerial, and financial capacity.

''(j) RESTRUCTURING.—Notwithstanding section 204(b)(1), except as provided in subsection (k), a State may provide assistance from the water pollution control revolving fund of the State for a project only if the recipient of the assistance—

''(1) has considered—

''(A) consolidating management functions or ownership with another facility;

''(B) forming public-private partnerships or other cooperative partnerships; and

''(C) using nonstructural alternatives or technologies that may be more environmentally sensitive; and

''(2) has in effect a plan to achieve, within a reasonable period of time, a rate structure that, to the maximum extent practicable—

''(A) reflects the actual cost of service provided by the recipient; and

''(B) addresses capital replacement funds; and

''(3) has in effect, or will have in effect on completion of the project, an asset management plan described in subsection (i)(5).

''(k) EXEMPTION FOR ASSISTANCE SOLELY FOR PLANNING, DESIGN, AND PRECONSTRUCTION ACTIVITIES.—Subsection (j) and paragraphs (3) and (5) of subsection (i) shall not apply to assistance provided under this title that is to be used by a treatment works solely for planning, design, or preconstruction activities.

''(l) TECHNICAL ASSISTANCE.—

''(1) DEFINITION OF QUALIFIED NONPROFIT TECHNICAL ASSISTANCE PROVIDER.—In this subsection, the term 'qualified nonprofit technical assistance provider' means a nonprofit entity that provides technical assistance (such as circuit-rider programs, training, and preliminary engineering evaluations) to small treatment works that—

''(A) serve not more than 3,300 users; and

''(B) are located in a rural area.

''(2) GRANT PROGRAM.—

''(A) IN GENERAL.—The Administrator may make grants to a qualified nonprofit technical assistance provider for use in assisting small treatment works in planning, developing, and obtaining financing for eligible projects described in subsection (c).

''(B) DISTRIBUTION OF GRANTS.—In carrying out this subsection, the Administrator shall ensure, to the maximum extent practicable, that technical assistance provided using funds from a grant under subparagraph (A) is made available in each State.

''(C) CONSULTATION.—As a condition of receiving a grant under this subsection, a qualified nonprofit technical assistance provider shall consult with each State in which grant funds are to be expended or otherwise made available before the grant funds are expended or made available in the State.

''(3) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection $7,000,000 for each of fiscal years 2003 through 2007.

''(m) COMPETITION REQUIREMENTS.—

''(1) IN GENERAL.—The requirements described in section 204(a)(6) shall apply to each specification for bids for projects receiving assistance under this title.

''(2) SINGLE BIDS.—Nothing in this subsection prohibits a recipient of assistance under this title that receives only 1 bid for a project described in paragraph (1) from accepting the bid and carrying out the project.

''(n) NO JUDICIAL REVIEW.—A determination by a State to provide financial assistance under this title shall not be subject to judicial review.''.

(h) ALLOTMENT OF FUNDS.—Section 604(a) of the Federal Water Pollution Control Act (33 U.S.C. 1384(a)) is amended by striking subsection (a) and inserting the following:

''(a) FORMULA.—

''(1) ALLOCATION.—

''(A) IN GENERAL.—Except as provided in paragraph (2) and subject to subsection (b), funds made available to carry out this title for each of fiscal years 2003 through 2006 shall be allocated by the Administrator as follows:

''(i) AMOUNTS OF $1,350,000,000 OR LESS.—$1,350,000,000 (or, if the total amount made available for the fiscal year is less than that amount, the total amount made available) shall be allocated in accordance with a formula that allocates to each State the proportional share of the State needs identified in the most recent survey conducted under section 516(2), except that the minimum proportionate share provided to each State shall be 1.1 percent of available funds.

''(ii) AMOUNTS BETWEEN $1,350,000,000 AND $1,550,000,000.—Amounts greater than $1,350,000,000 but less than $1,550,000,000 made available for the fiscal year shall be allocated by the Administrator in accordance with a formula that allocates to each State a proportionate share equal to the difference between—

''(I) the amount received under clause (i); and

''(II) the amount that the State would have received under section 205(c);

in cases in which an amount received by the State under clause (i) is less than the amount that would have been received by the State under section 205(c).

''(iii) AMOUNTS GREATER THAN $1,550,000,000.—Any amounts equal to or greater than $1,550,000,000 that are made available for the fiscal year shall be allocated in accordance with a formula that allocates to each State the proportional share of the State needs identified in the most recent survey conducted under section 516(2), except that the minimum proportionate share provided to each State shall be 1.1 percent of available funds.

''(B) SUBSEQUENT FISCAL YEARS.—For fiscal year 2007 and each fiscal year thereafter, funds shall be allocated in accordance with a formula that allocates to each State the proportional share of the State needs identified in the most recent survey conducted pursuant to section 516(2), except that the minimum proportionate share provided to each State shall be 1 percent of available funds.

''(2) PRIVATE UTILITIES.—If a State elects to include the needs of private utilities in the needs survey used to develop the allocation formula described in paragraph (1), the State shall ensure that the private utilities are eligible to receive funds under this title.''.

(i) AUDITS, REPORTS, AND FISCAL CONTROLS; INTENDED USE PLAN.—Section 606 of the Federal Water Pollution Control Act (33 U.S.C. 1386) is amended—

(1) in subsection (c)—

(A) by inserting ''(including significant public outreach)'' after ''review''; and

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

''(1) a summary of the priority projects developed under section 603(g) for which the State intends to provide assistance from the water pollution control revolving fund of the State for the year covered by the plan;''; and

(2) in subsection (d)—

(A) in the subsection heading, by striking ''REPORT'' and inserting ''REPORTS'';

(B) by striking ''Beginning the'' and inserting the following:

''(1) IN GENERAL.—Beginning in the''; and

(C) by adding at the end the following:

''(2) REPORT ON TECHNICAL, MANAGERIAL, AND FINANCIAL CAPACITY.—Not later than 2 years after the date on which a State first adopts a strategy in accordance with section 603(j)(2), and annually thereafter, the State shall submit to the Administrator a report on the progress made in improving the technical, managerial, and financial capacity of treatment works in the State (including the progress of the State in complying with the amendments to section 603 made by the Water Investment Act of 2002).

''(3) AVAILABILITY.—A State that submits a report under this subsection shall make the report available to the public.''.

(j) AUTHORIZATION OF APPROPRIATIONS.—The Federal Water Pollution Control Act is amended by striking section 607 (33 U.S.C. 1387) and inserting the following:

''SEC. 607. AUTHORIZATION OF APPROPRIATIONS.

''(a) IN GENERAL.—There are authorized to be appropriated to carry out this title—

''(1) $3,200,000 for each of fiscal years 2003 and 2004;

''(2) $3,600,000 for fiscal year 2005;

''(3) $4,000,000 for fiscal year 2006; and

''(4) $6,000,000 for fiscal year 2007.

''(b) AVAILABILITY.—Amounts made available under this section shall remain available until expended.

''(c) RESERVATION FOR NEEDS SURVEYS.—Of the amount made available under subsection (a) to carry out this title for a fiscal year, the Administrator may reserve not more than $1,000,000 per year to pay the costs of conducting needs surveys under section 516(2).''.

(k) CONFORMING AMENDMENT.—Section 216 of the Federal Water Pollution Control Act (33 U.S.C. 1296) is amended—

(1) in the first sentence, by inserting ''in accordance with section 603(g)'' before ''the determination''; and

(2) by striking the ''Not less than 25 per centum'' and all that follows.

TITLE II—SAFE DRINKING WATER ACT MODIFICATIONS

SEC. 201. PLANNING, DESIGN, AND PRECONSTRUCTION COSTS.

Section 1452(a)(2) of the Safe Drinking Water Act (42 U.S.C. 300j–12(a)(2)) is amended in the second sentence by striking ''(not'' and inserting ''(including planning, design, and associated preconstruction expenditures but not''.

SEC. 202. STATE REVOLVING LOAN FUND.

(a) IN GENERAL.—Section 1452(a)(3)(B)(ii) of the Safe Drinking Water Act (42 U.S.C. 300j–12(a)(3)(B)(ii)) is amended by inserting ''and the formation of regional partnerships'' after ''procedures''.

(b) PUBLIC OUTREACH.—Section 1452(b) of the Safe Drinking Water Act (42 U.S.C. 300j–12(b)) is amended in paragraphs (1) and (3)(B) by inserting ''(including significant public outreach)'' after ''comment'' each place it appears.

(c) TYPES OF ASSISTANCE.—Section 1452(f) of the Safe Drinking Water Act (42 U.S.C. 300j–12(f)) is amended—

(1) in paragraph (1)—

(A) in subparagraph (C), by striking ''and'' at the end; and

(B) by adding at the end the following:

''(E) the recipient of the loan funds considers, during the planning and engineering phase of each project for which the loan funds are received—

''(i) consolidating management functions or ownership with another facility;

''(ii) forming public-private partnerships or other cooperative partnerships; and

''(iii) using nonstructural alternatives or technologies that may be more environmentally sensitive;

''(F) the recipient of the loan funds has in effect a plan to achieve, within a reasonable period of time, a rate structure that, to the maximum extent practicable—

''(i) reflects the actual cost of service provided by the recipient; and

''(ii) addresses capital replacement funds; and

''(G) the recipient of each loan that reflects a significant capital investment has in effect, or will have in effect on completion of the project, an asset management plan (for which the Administrator may publish information to assist States in determining required content) that—

''(i) conforms to generally accepted industry practices; and

''(ii) includes—

''(I) an inventory of existing assets (including an estimate of the useful life of the assets); and

''(II) an optimal schedule of operations, maintenance, and capital investment required to meet and sustain performance objectives;'';

(2) in paragraph (4), by striking ''and'' at the end;

(3) in paragraph (5), by striking the period at the end and inserting ''; and''; and

(4) by adding at the end the following:

''(6) to reduce costs incurred by a municipality in issuing bonds.''.

(d) CONSULTATION AND COORDINATION WITH STATE AGENCIES; JUDICIAL REVIEW.—Section 1452(g) of the Safe Drinking Water Act (42 U.S.C. 300j–12(g)) is amended by adding at the end the following:

''(5) CONSULTATION AND COORDINATION WITH STATE AGENCIES.—A State that provides financial assistance from the drinking water revolving fund of the State shall ensure that applicants for the assistance consult and coordinate with, as appropriate, agencies responsible for developing any—

''(A) local land use plans;

''(B) regional transportation improvement and long-range transportation plans; and

''(C) State, regional, and municipal watershed plans.

''(6) NO JUDICIAL REVIEW.—A determination by a State to provide financial assistance under this section shall not be subject to judicial review.''.

(e) OTHER AUTHORIZED ACTIVITIES.—Section 1452(k)(1) of the Safe Drinking Water Act (42 U.S.C. 300j–12(k)(1)) is amended by striking subparagraph (D) and inserting the following:

''(D) Make expenditures for the development and implementation of source water protection programs.

''(E) Provide assistance for consolidation among community water systems for the purpose of—

''(i) meeting national primary drinking water standards; or

''(ii) making more efficient use of funds made available under subsection (a)(2).''.

SEC. 203. ADDITIONAL SUBSIDIZATION.

Section 1452(d)(1) of the Safe Drinking Water Act (42 U.S.C. 300j–12(d)(1)) is amended—

(1) by striking ''Notwithstanding any other provision'' and inserting the following:

''(A) IN GENERAL.—Notwithstanding any other provision''; and

(2) by adding at the end the following:

''(B) SUBSIDIZATION FOR DISADVANTAGED USERS.—

''(i) IN GENERAL.—Subject to clause (ii), a State may provide additional subsidization under subparagraph (A) for a fiscal year for a community that does not meet the definition of a disadvantaged community if the State, as part of the assistance agreement between the State and the recipient of the assistance, ensures that the additional subsidization provided under this paragraph is directed through the user charge rate system to disadvantaged users within the residential user class of the community (as defined by the State based on affordability criteria).

''(ii) MAXIMUM AMOUNT.—Assistance provided by a State under clause (i) shall not exceed 15 percent of the amount of the capitalization grant received by the State for the fiscal year.

''(iii) GUIDANCE.—The Administrator may publish guidance to assist States in identifying disadvantaged users described in clause (i).''.

SEC. 204. PRIVATE UTILITIES.

Section 1452(h) of the Safe Drinking Water Act (42 U.S.C. 300j–12(h)) is amended—

(1) by striking ''The Administrator'' and inserting the following:

''(1) IN GENERAL.—The Administrator''; and

(2) by adding at the end the following:

''(2) PRIVATE UTILITIES.—If a State elects to include the needs of private utilities in the needs survey under paragraph (1), the State shall ensure that the private utilities are eligible to receive funds under this title.''.

SEC. 205. COMPETITION REQUIREMENTS.

Section 1452 of the Safe Drinking Water Act (42 U.S.C. 300j–12) is amended by adding at the end the following:

''(s) COMPETITION REQUIREMENTS.—

''(1) IN GENERAL.—Except as provided in paragraph (2), as a condition of receipt of

funds under this section, no specification for bids prepared for projects to be carried out using the funds shall be written in such a manner as to contain any proprietary, exclusionary, or discriminatory requirement, other than requirements based on performance, unless such requirements are necessary to test or demonstrate a specific thing or to provide for necessary interchangeability of parts and equipment. If, in the judgment of a recipient of funds, it is impractical or uneconomical to make a clear and accurate description of the technical requirements, a 'brand name or equal' description may be used as a means to define the performance or other salient requirements of a procurement, and in doing so the recipient need not establish the existence of any source other than the brand or source so named.

''(2) SINGLE BIDS.—Nothing in this subsection prohibits a recipient of assistance under this title that receives only 1 bid for a project described in paragraph (1) from accepting the bid and carrying out the project.''.

SEC. 206. TECHNICAL ASSISTANCE FOR SMALL SYSTEMS.

(a) SMALL PUBLIC WATER SYSTEMS TECHNOLOGY ASSISTANCE CENTERS.—Section 1420(f) of the Safe Drinking Water Act (42 U.S.C. 300g–9(f)) is amended—

(1) in paragraph (2), by inserting ''technology verification, pilot and field testing of innovative technologies, and'' after ''shall include''; and

(2) by striking paragraph (6) and inserting the following:

''(6) REVIEW AND EVALUATION.—

''(A) IN GENERAL.—Not less often than every 2 years, the Administrator shall review and evaluate the program carried out under this subsection.

''(B) DISQUALIFICATION.—If, in carrying out this subsection, the Administrator determines that a small public water system technology assistance center is not carrying out the duties of the center, the Administrator—

''(i) shall notify the center of the determination of the Administrator; and

''(ii) not later than 180 days after the date of the notification, may terminate the provision of funds to the center.

''(7) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection $5,000,000 for each of fiscal years 2003 through 2007, to be distributed to the centers in accordance this subsection.''.

(b) ENVIRONMENTAL FINANCE CENTERS.—Section 1420(g) of the Safe Drinking Water Act (42 U.S.C. 300g–9(g)) is amended by striking paragraph (4) and inserting the following:

''(4) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection $1,500,000 for each of fiscal years 2003 through 2007.''.

SEC. 207. AUTHORIZATION OF APPROPRIATIONS.

Section 1452 of the Safe Drinking Water Act (42 U.S.C. 300j–12) is amended by striking subsection (m) and inserting the following:

''(m) AUTHORIZATION OF APPROPRIATIONS.—

''(1) IN GENERAL.—There are authorized to be appropriated to carry out this section—

''(A) $1,500,000 for fiscal year 2003;

''(B) $2,000,000 for each of fiscal years 2004 and 2005;

''(C) $3,500,000 for fiscal year 2006; and

''(D) $6,000,000 for fiscal year 2007.

''(2) AVAILABILITY.—Amounts made available under this subsection shall remain available until expended.

''(3) RESERVATION FOR NEEDS SURVEYS.—Of the amount made available under paragraph (1) to carry out this section for a fiscal year, the Administrator may reserve not more than $1,000,000 per year to pay the costs of conducting needs surveys under subsection (h).''.

TITLE III—INNOVATIONS IN FUND AND WATER QUALITY MANAGEMENT

SEC. 301. TRANSFER OF FUNDS.

(a) WATER POLLUTION CONTROL FUND.—Section 603 of the Federal Water Pollution Control Act (33 U.S.C. 1383) is amended by adding at the end the following:

''(i) TRANSFER OF FUNDS.—

''(1) IN GENERAL.—A Governor of the State may—

''(A) reserve up to 33 percent of a capitalization grant made under this title and add the funds reserved to any funds provided to the State under section 1452 of the Safe Drinking Water Act (42 U.S.C. 300j–12); and

''(B) reserve in any year an amount up to the amount that may be reserved under subparagraph (A) for that year from capitalization grants made under section 1452 of that Act (42 U.S.C. 300j–12) and add the reserved funds to any funds provided to the State under this title.

''(2) STATE MATCH.—Funds reserved under this subsection shall not be considered to be a State contribution for a capitalization grant required under this title or section 1452(b) of the Safe Drinking Water Act (42 U.S.C. 300j–12(b)).''.

(b) SAFE DRINKING WATER FUND.—Section 1452(g) of the Safe Drinking Water Act (42 U.S.C. 300j–12(g)) is amended—

(1) in paragraph (2), by striking ''4'' and inserting ''5''; and

(2) by adding at the end the following:

''(5) TRANSFER OF FUNDS.—

''(A) IN GENERAL.—A Governor of the State may—

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

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

''(B) STATE MATCH.—Funds reserved under this paragraph shall not be considered to be a State match of a capitalization grant required under this section or section 602(b) of the Federal Water Pollution Control Act (33 U.S.C. 1382(b)).''.

SEC. 302. DEMONSTRATION PROGRAM FOR WATER QUALITY ENHANCEMENT AND MANAGEMENT.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—As soon as practicable after the date of enactment of this Act, the Administrator of the Environmental Protection Agency (referred to in this section as the ''Administrator'') shall establish a nationwide demonstration program to—

(A) promote innovations in technology and alternative approaches to water quality management or water supply; and

(B) reduce costs to municipalities incurred in complying with—

(i) the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.); and

(ii) the Safe Drinking Water Act (42 U.S.C. 300f et seq.).

(2) SCOPE.—The demonstration program shall consist of 10 projects per year, to be carried out in municipalities selected by the Administrator under subsection (b).

(b) SELECTION OF MUNICIPALITIES.—

(1) APPLICATION.—A municipality that seeks to be selected to participate in the demonstration program shall submit to the Administrator a plan that—

(A) is developed in coordination with—

(i) the agency of the State having jurisdiction over water quality or water supply matters; and

(ii) interested stakeholders;

(B) describes water impacts specific to urban and rural areas;

(C) includes a strategy under which the municipality, through participation in the demonstration program, could effectively—

(i) address those problems; and

(ii) achieve the same water quality goals as those goals that—

(I) could be achieved using more traditional methods; or

(II) are mandated under—

(aa) the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.); and

(bb) the Safe Drinking Water Act (42 U.S.C. 300f et seq.); and

(D) includes a schedule for achieving the goals of the municipality.

(2) TYPES OF PROJECTS.—In carrying out the demonstration program, the Administrator may select projects relating to such matters as—

(A) excessive nutrient growth;

(B) urban or rural pressure;

(C) a lack of an alternative water supply;

(D) difficulties in water conservation and efficiency;

(E) a lack of support tools and technologies to rehabilitate and replace water supplies;

(F) a lack of monitoring and data analysis for distribution systems;

(G) nonpoint source water pollution;

(H) sanitary overflows;

(I) combined sewer overflows;

(J) problems with naturally-occurring constituents of concern; or

(K) problems with erosion and excess sediment.

(3) RESPONSIBILITIES OF ADMINISTRATOR.—In selecting municipalities under this subsection, the Administrator shall—

(A) ensure, to the maximum extent practicable—

(i) the inclusion in the demonstration program of a variety of projects with respect to—

(I) geographic distribution;

(II) innovative technologies used for the projects; and

(III) nontraditional approaches (including low-impact development technologies) used for the projects; and

(ii) that each category of project described in paragraph (2) is adequately represented;

(B) give higher priority to projects that—

(i) address multiple problems; and

(ii) are regionally applicable;

(C) ensure, to the maximum extent practicable, that at least 1 small community having a population of 10,000 or less receives a grant each year; and

(D) ensure that, for each fiscal year, no municipality receives more than 25 percent of the total amount of funds made available for the fiscal year to provide grants under this section.

(4) COST SHARING.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the non-Federal share of the cost of a project carried out under this section shall be at least 20 percent.

(B) WAIVER.—The Administrator may reduce or eliminate the non-Federal share of the cost of a project for reasons of affordability.

(c) REPORTS.—

(1) REPORTS FROM MUNICIPALITIES.—A municipality that is selected for participation in the demonstration program shall submit to the Administrator, on the date of completion of a project of the municipality and on each of the dates that is 1, 2, and 3 years after that date, a report that describes the effectiveness of the project.

(2) REPORTS TO CONGRESS.—Not later than 2 years after the date of enactment of this Act, and every 2 years thereafter, the Administrator shall compile, and submit to the

Committee on Environment and Public Works of the Senate, and the Committee on Transportation and Infrastructure and the Committee on Energy and Commerce of the House of Representatives, a report that describes the status and results of the demonstration program.

(d) INCORPORATION OF RESULTS AND INFORMATION.—To the maximum extent practicable, the Administrator shall incorporate the results of, and information obtained from, successful projects under this section into programs administered by the Administrator.

(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $20,000,000 for each of fiscal years 2003 through 2007.

SEC. 303. RATE STUDY.

(a) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, the National Academy of Sciences shall complete a study of the public water system and treatment works rate structures for communities in the United States selected by the Academy in accordance with subsection (c).

(b) REQUIRED ELEMENTS.—

(1) RATES.—The study shall, at a minimum—

(A) determine whether public water system and treatment works rates for communities included in the study adequately address the cost of service, including funds necessary to replace infrastructure;

(B) identify the manner in which the public water system and treatment works rates were determined;

(C) determine the manner in which cost of service is measured;

(D)(i) survey existing practices for establishing public water system and treatment works rates; and

(ii) identify any commonalities in factors and processes used to evaluate rate systems and make related decisions; and

(E) recommend a set of best industry practices for public water systems and treatment works for use in establishing a rate structure that—

(i) adequately addresses the true cost of service; and

(ii) takes into consideration the needs of disadvantaged individuals and communities.

(2) AFFORDABILITY.—The study shall, at a minimum—

(A) identify existing standards for affordability;

(B) determine the manner in which those standards are determined and defined;

(C) determine the manner in which affordability varies with respect to communities of different sizes and in different regions; and

(D) determine the extent to which affordability affects the decision of a community to increase public water system and treatment works rates (including the decision relating to the percentage by which those rates should be increased).

(3) DISADVANTAGED COMMUNITIES.—The study shall, at a minimum—

(A) survey a cross-section of States representing different sizes, demographics, and geographical regions;

(B) describe, for each State described in subparagraph (A), the definition of ''disadvantaged community'' used in the State in carrying out projects and activities under the Safe Drinking Water Act (42 U.S.C. 300f et seq.);

(C) review other means of identifying the meaning of the term ''disadvantaged'', as that term applies to communities;

(D) determine which factors and characteristics are required for a community to be considered ''disadvantaged''; and

(E) evaluate the degree to which factors such as a reduction in the tax base over a period of time, a reduction in population, the loss of an industrial base, and the existence of areas of concentrated poverty are taken into account in determining whether a community is a disadvantaged community.

(c) SELECTION OF COMMUNITIES.—The National Academy of Sciences shall select communities, the public water system and treatment works rate structures of which are to be studied under this section, that include a cross section of communities representing various populations, income levels, demographics, and geographical regions.

(d) REPORT TO CONGRESS.—On completion of the study under this section, the National Academy of Sciences shall submit to Congress a report that describes the results of the study.

(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $1,000,000 for each of fiscal years 2003 and 2004.

SEC. 304. EFFECTS ON POLICIES AND RIGHTS.

(a) IN GENERAL.—Nothing in this Act—

(1) impairs or otherwise affects in any way, any right or jurisdiction of any State with respect to the water (including boundary water) of the State;

(2) supersedes, abrogates, or otherwise impairs the authority of any State to allocate quantities of water within areas under the jurisdiction of the State; or

(3) supersedes or abrogates any right to any quantity or use of water that has been established by any State.

(b) STATE WATER RIGHTS.—Notwithstanding any other provision of law, with respect to the implementation of this Act and amendments made by this Act—

(1) the management of and control over water in a State shall be subject to and in accordance with the laws of the State in which the water is located;

(2) Congress delegates to each State the authority to regulate water of the State, including the authority to regulate water in interstate commerce (including regulation of usufructuary rights, trade, and transportation); and

(3) the United States, and any agency or officer on behalf of the United States, may exercise management and control over water in a State only in compliance with the laws of the State in which the water is located.

TITLE IV—WATER RESOURCE PLANNING

SEC. 401. FINDINGS.

Congress finds that—

(1) there is ever-growing demand and competition for water from many segments of society, including municipal users, agriculture, and critical ecosystems;

(2) population growth in the United States will continue to place increasing pressure on the water supply of the United States;

(3) because sources of water do not follow political boundaries—

(A) the availability of water is increasingly becoming a regional issue; and

(B) it is more difficult to take action—

(i) to monitor the state of water resources;

(ii) to prepare for water shortages or surpluses;

(iii) to prevent the occurrence of water shortages or surpluses; or

(iv) to respond to emergency situations;

(4)(A) water shortages or surpluses can—

(i) impact public health;

(ii) limit economic and agricultural development; and

(iii) damage ecosystems; and

(B) the United States often suffers serious economic and environmental losses from water shortages or surpluses;

(5) there is no national policy to ensure an integrated and coordinated Federal strategy to monitor the state of the water resources of the United States;

(6) periodic assessments of the water resources of the United States are necessary; and

(7)(A) Congress has recognized and deferred to the States the authority to allocate and administer water within the borders of the States;

(B) the courts have confirmed that this is an appropriate role for the States; and

(C) Congress should continue to defer to States on laws and regulations governing the appropriation, distribution, and control or use of water.

SEC. 402. DEFINITION OF SECRETARY.

In this title, the term ''Secretary'' means the Secretary of the Interior, acting through the Director of the United States Geological Survey.

SEC. 403. ACTIONS.

(a) ASSESSMENT.—

(1) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, the Secretary shall conduct an assessment of the state of water resources in the United States.

(2) COMPONENTS.—The assessment shall, at a minimum—

(A) identify areas in the United States that are at significant risk for water shortages or water surpluses, as those shortages or surpluses pertain to support of human or ecosystem needs, in—

(i) the short term (1 through 10 years);

(ii) the middle term (11 through 20 years); and

(iii) the long term (21 through 50 years); and

(B) identify areas in each category described in subparagraph (A) in which water resource issues cross political boundaries.

(3) REPORT.—On completion of the assessment, the Secretary shall submit to Congress a report that describes the results of the assessment.

(b) WATER RESOURCE RESEARCH PRIORITIES.—

(1) IN GENERAL.—The Secretary shall coordinate a process among Federal agencies (including the Environmental Protection Agency) to develop and publish, not later than 1 year after the date of enactment of this Act, a list of water resource research priorities that focuses on—

(A) monitoring; and

(B) improving the quality of the information available to State, tribal, and local water resource managers.

(2) USE OF LIST.—The list published under paragraph (1) shall be used by Federal agencies as a guide in making decisions on the allocation of water research funding.

(c) INFORMATION DELIVERY SYSTEM.—

(1) IN GENERAL.—The Secretary shall coordinate a process to develop an effective information delivery system to communicate information described in paragraph (2) to—

(A) decisionmakers at the Federal, regional, State, tribal, and local levels;

(B) the private sector; and

(C) the general public.

(2) TYPES OF INFORMATION.—The information referred to in paragraph (1) may include—

(A) the results of the national water resource assessment;

(B) a summary of the Federal water research priorities developed under subsection (b);

(C) near real-time data and other information on water shortages and surpluses;

(D) planning models for water shortages or surpluses (at various levels, such as State, river basin, and watershed levels);

(E) streamlined procedures for States and localities to interact with and obtain assistance from Federal agencies that perform water resource functions; and

(F) other materials, as determined by the Secretary.

SEC. 404. REPORT TO CONGRESS.

Not later than 2 years after the date of enactment of this Act, and every 2 years thereafter through fiscal year 2007, the Secretary shall submit to Congress a report on the implementation of this title.

SEC. 405. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to the Secretary to carry out this title $3,000,000 for each of fiscal years 2003 through 2007, to remain available until expended.●

Mr. JEFFORDS. Mr. President, I rise today to join my colleagues Senator GRAHAM, Senator CRAPO, and Senator SMITH of New Hampshire in introducing the Water Investment Act of 2002. This legislation seeks to provide additional resources to States, Tribes, and localities to meet water infrastructure needs. Simultaneously, it seeks to move the state of the art in water program management forward by increasing the flexibility offered to States in administering their water programs, ensuring that ''next generation'' of water quality issues receive the appropriate focus, and institutionalizing financial management capacity into our Nation's water systems.

Mr. President, this legislation is critical to our Nation's future. We tend to take clean water in our faucets and well-functioning, hidden sewage treatment systems for granted in this country. However, without vigilance, these luxuries can quickly disappear. The Water Investment Act of 2002 will help our communities be vigilant.

This legislation authorizes funding of over $20 billion over 5 years nationwide for clean water and $15 billion over 5 years nationwide for safe drinking water projects.

There is significant new flexibility attached to these funds.

Many of the provisions already authorized in the Safe Drinking Water Act which allow an extension of loan terms and more favorable loan terms (including principal forgiveness) for disadvantaged communities. In States such as my home State of Vermont, these types of provisions are critical as small communities struggle to meet water quality needs.

Recognizing the needs of larger communities with diverse income groups within their borders, this bill includes a new opportunity for States to provide more favorable loan terms to communities that may not be disadvantaged as a whole, but may have pockets of disadvantaged individuals as long as the community can demonstrate that the financial benefit they received will be directed through the rate structure toward disadvantaged individuals (based on income) in their service area.

The bill makes the authority to transfer funds between the Safe Drinking Water Act and Clean Water Act State revolving funds permanent.

There is financial accountability built into the Water Investment Act of 2002. We have included provisions for both the Clean Water Act and the Safe Drinking Water Act that are designed to help water utilities better manage their capital investments using asset management plans, rate structures that account for capital replacement costs, and other financial management techniques. We encourage utilities to seek innovative solutions by asking them to review options for consolidation, public-private partnerships, and low-impact technologies before proceeding with a project.

Whenever one mentions ''consolidation'', concerns are often raised about inadvertently providing incentives for excessive or uncontrolled growth. This legislation recognizes that concern and includes a provision that specifically requires States to ensure that water projects are coordinated with local land use plans, regional transportation improvement and long-range transportation plans, and state, regional and municipal watershed plans. As a package, this legislation will help ensure that utilities seek the most efficient organizational structure to meet their water quality needs.

I am also very pleased that the bill includes provisions ensuring that ''next generation'' of water quality issues receives the appropriate focus. As I worked on this legislation, I became aware that there are opportunities to use low-impact technologies to solve water quality issues that may or may not be considered by states and localities as they seek to solve water quality issues. In response, our bill includes several incentives for use of non-structural technologies. We specifically state in the statute that these approaches are eligible to receive funding under the Clean Water Act State Revolving Fund and require that recipients of funds consider the use of low-impact technologies. In addition, we authorize a demonstration program at $20 million per year over 5 years to promote innovations in technology and alternative approaches to water quality management and water supply. This program requires that a portion of the projects use low-impact development technologies.

The use of nontraditional technologies is the focus in the Water Investment Act to ensure that nonpoint source pollution receives appropriate emphasis under the Clean Water Act. The modifications this bill makes to the priority listing requirements in the Clean Water Act ensure that nonpoint source projects will be a part of the equation when funding decisions are made at the State level.

The bill also addresses eligibility issues. It clarifies that planning, design, and associated preconstruction costs are eligible for funds under the Clean Water Act and Safe Drinking Water Act State Revolving Funds as stand-alone items. This ensures that small communities who may not have the resources available to get a project ready to go on their own can receive assistance.

Small communities will also benefit from a provision in the bill that allows privately-owned wastewater facilities to access the Clean Water Act State Revolving Fund Already permitted under the Safe Drinking Water Act, this will allow small, privately-owned wastewater systems such as those located in trailer parks, to obtain much-needed financial assistance.

To ensure that both public and private small systems can actually develop the projects to solve problems, our legislation provides three main types of technical assistance for small communities. It authorizes $7 million per year over 5 years for technical assistance to small systems serving less than 3300 people located in a rural area. It reauthorizes the Small Public Water Systems Technology Assistance Centers for an additional $5 million per year over 5 years. Finally, it reauthorizes the Environmental Finance Centers for $1.5 million per year over 5 years.

We have heard from many organizations that public participation in the execution of the state revolving loan funds needs to be increased. I hope that every individual interested in how water quality projects are selected and prioritized in their States takes full advantage of existing opportunties for public participation. Our legislation takes action to ensure that there is ample opportunity for public comment when developing project priority lists and intended use plans.

There are a multitude of additional provisions in this legislation that I will leave to my colleagues to discuss. I want to thank Senator GRAHAM for his leadership on this legislation and Senators CRAPO and SMITH for their dedication to introducing a bi-partisan package today and their willingness to find a compromise when we needed one.

Water infrastructure is a major priority for the Environment and Public Works Committee during this Congress. We plan to begin an aggressive schedule to move this legislation through the Senate on February 26 with our first committee hearing, followed by our second hearing on February 28 and a markup in early March. I recognize that this issue is of great importance to every Senator, and I look forward to working with each of you to pass this important legislation that is so important to our Nation's water quality and drinking water safety.

By Mr. WYDEN (for himself, Mrs. MURRAY, and Mr. SMITH of Oregon):

S. 1962. A bill to provide for qualified withdrawals from the Capital Construction Fund for fishermen leaving the industry for the rollover of Capital Construction Funds to individual retirement plans; to the Committee on Finance.

● Mr. WYDEN. Mr. President, today I am pleased to introduce, for myself, Mrs. MURRAY, and Mr. SMITH of Oregon, the Capital Construction Fund Qualified Withdrawal Act of 2002.

The groundfish fishery in Oregon and adjoining States in the Pacific Northwest continues to face daunting challenges as a result of the groundfish fishery disaster, resulting in a more than 40-percent drop in the income of Oregon fishers since 1995. To assist in rebuilding healthy groundfish stocks, my goal remains to reduce overcapitalization in the groundfish fishery. We want to get the right number of fishers out there, at the right time, catching the right number of fish. This legislation supports this effort by reforming the Capital Construction Fund in a way that will ease the transition for groundfish fishers away from fishing.

The Capital Construction Fund, CCF, was created by the Merchant Marine Act of 1936, as amended in 1969, 46 U.S.C. 1177. CCF has been a way for fishers to accumulate funds, free from taxes, for the purpose of buying or refitting fishing vessels. The program has been a success; however, the CCF's usefulness has not kept up with the times, and today the CCF is exacerbating the problems facing U.S. fisheries, including the West Coast groundfish fishery.

CCF works like an Individual Retirement Account, IRA, in that deposits to the fund earn interest and are deducted from the fishermen's taxable income. But unlike IRAs, there is no limit on contributions to the CCF; so fishers are able to accumulate funds quickly. In Oregon, the amounts in the accounts range from $10,000 to over $200,000.

The problem my legislation will address is that fishers lose up to 70 percent of their funds in taxes and penalties if they withdraw funds from the CCF for purposes other than buying new vessels or upgrading current vessels. Because of the environmental problems plaguing commercial fishing, as well as the overcapitalization of the fishing fleet, fishermen who want to opt out of fishing are penalized for doing so.

This bill takes a significant step towards helping fishermen and making the West Coast groundfish fishery and the commercial fishing industry sustainable by amending the CCF to allow non-fishing uses of investments. This bill amends the Merchant Marine Act of 1936 and the Internal Revenue Code to allow funds currently in the CCF to be rolled over into an IRA or other types of retirement accounts, or to be used for the payment of an industry fee authorized by the fishery capacity reduction program, without adverse tax consequences to the account holders.

I look forward to working with my colleagues to pass this legislation, and I ask that the text of the bill be printed in the RECORD.

The bill follows.

S. 1962

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 Capital Construction Fund Qualified Withdrawal Act of 2002''.

SEC. 2. AMENDMENT OF THE MERCHANT MARINE ACT OF 1936 TO ENCOURAGE RETIREMENT OF CERTAIN FISHING VESSELS AND PERMITS.

(a) IN GENERAL.—Section 607(a) of the Merchant Marine Act, 1936 (46 U.S.C. App. 1177(a)) is amended by adding at the end the following: ''Any agreement entered into under this section may be modified for the purpose of encouraging the sustainability of the fisheries of the United States by making the termination and withdrawal of a capital construction fund a qualified withdrawal if done in exchange for the retirement of the related commercial fishing vessels and related commercial fishing permits.''.

(b) NEW QUALIFIED WITHDRAWALS.—

(1) AMENDMENTS TO MERCHANT MARINE ACT, 1936.—Section 607(f)(1) of the Merchant Marine Act, 1936 (46 U.S.C. App. 1177(f)(1)) is amended—

(A) by striking ''for:'' and inserting ''for—'';

(B) by striking ''vessel'' in subparagraph (A) and inserting ''vessel;'';

(C) by striking ''vessel, or'' in subparagraph (B) and inserting ''vessel;'';

(D) by striking ''vessel.'' in subparagraph (C) and inserting ''vessel;''; and

(E) by inserting after subparagraph (C) the following:

''(D) the payment of an industry fee authorized by the fishing capacity reduction program under section 312(b) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1861a(b));

''(E) in the case of any such person or shareholder for whose benefit such fund was established or any shareholder of such person, a rollover contribution (within the meaning of section 408(d)(3) of the Internal Revenue Code of 1986) to such person's or shareholder's individual retirement plan (as defined in section 7701(a)(37) of such Code); or

''(F) the payment to a person or corporation terminating a capital construction fund for whose benefit the fund was established and retiring related commercial fishing vessels and permits.''.

(2) SECRETARY TO ENSURE RETIREMENT OF VESSELS AND PERMITS.—The Secretary of Commerce by regulation shall establish procedures to ensure that any person making a qualified withdrawal authorized by section 607(f)(1)(F) of the Merchant Marine Act, 1936 (46 U.S.C. App. 1177(f)(1)(F)) retires the related commercial use of fishing vessels and commercial fishery permits.

(c) CONFORMING AMENDMENTS.—

(1) IN GENERAL.—Section 7518(e)(1) of the Internal Revenue Code of 1986 (relating to purposes of qualified withdrawals) is amended—

(A) by striking ''for:'' and inserting ''for—'';

(B) by striking ''vessel, or'' in subparagraph (B) and inserting ''vessel;'';

(C) by striking ''vessel.'' in subparagraph (C) and inserting ''vessel;'';

(D) by inserting after subparagraph (C) the following:

''(D) the payment of an industry fee authorized by the fishing capacity reduction program under section 312 of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1861a);

''(E) in the case of any person or shareholder for whose benefit such fund was established or any shareholder of such person, a rollover contribution (within the meaning of section 408(d)(3)) to such person's or shareholder's individual retirement plan (as defined in section 7701(a)(37)); or

''(F) the payment to a person terminating a capital construction fund for whose benefit the fund was established and retiring related commercial fishing vessels and permits.''.

(2) SECRETARY TO ENSURE RETIREMENT OF VESSELS AND PERMITS.—The Secretary of the Treasury by regulation shall establish procedures to ensure that any person making a qualified withdrawal authorized by section 7518(e)(1)(F) of the Internal Revenue Code of 1986 retires the related commercial use of fishing vessels and commercial fishery permits referred to therein.

SEC. 3. EFFECTIVE DATE.

The amendments made by this Act shall apply to withdrawals made after the date of enactment of this Act.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 211—DESIGNATING MARCH 2, 2002, AS ''READ ACROSS AMERICA DAY''

Ms. COLLINS (for herself and Mr. REED) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 211

Whereas reading is a basic requirement for quality education and professional success, and a source of pleasure throughout life;

Whereas Americans must be able to read if the Nation is to remain competitive in the global economy;

Whereas Congress, through the No Child Left Behind Act of 2001 (Public Law 107–110) and the new Reading First, Early Reading First, and Improving Literacy Through School Libraries programs, has placed great emphasis on reading intervention and additional resources for reading assistance; and

Whereas more than 40 national associations concerned about reading and education have joined with the National Education Association to use March 2, the anniversary of the birth of Theodor Geisel, also known as Dr. Seuss, to celebrate reading: Now, therefore, be it

Resolved, That the Senate—

(1) designates March 2, 2002, as ''Read Across America Day'';

(2) honors Theodor Geisel, also known as Dr. Seuss, for his success in encouraging children to discover the joy of reading;

(3) encourages parents to read with their children for at least 30 minutes on Read Across America Day in honor of Dr. Seuss and in a celebration of reading; and

(4) requests that the President issue a proclamation calling on the people of the United States to observe the day with appropriate ceremonies and activities.

SENATE CONCURRENT RESOLUTION 98—COMMEMORATING THE 30TH ANNIVERSARY OF THE INAUGURATION OF SINO-AMERICAN RELATIONS AND THE SALE OF THE FIRST COMMERCIAL JET AIRCRAFT TO CHINA

Mrs. MURRAY (for herself and Ms. CANTWELL) submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations:

S. CON. RES. 98

Whereas February 21, 2002, marks the 30th anniversary of President Richard Nixon's historic visit to the Peoples Republic of China;

Whereas on February 21, 1972, the world watched as Air Force One, a Boeing 707 carrying President Nixon, landed in China to inaugurate a new era in Sino-American relations;

Whereas in the same year, the Civil Aviation Administration of China ordered 10 Boeing 707 jet aircraft, marking the resumption