S. Res. 181. A resolution relating to the appointment of Senate Legal Counsel; considered and agreed to.

S. Res. 182. A resolution relating to the appointment of Deputy Senate Legal Counsel; considered and agreed to.

By Mr. KEMPTHORNE (for Mr. DOLE):

S. Res. 183. A resolution making majority party appointments to certain Senate committees for the 104th Congress; considered and agreed to.

S. Res. 184. A resolution making majority party appointments to certain Senate committees for the 104th Congress; considered and agreed to.

By Mr. HELMS (for himself, Mrs. FEINSTEIN, Mr. GRASSLEY, and Ms. SNOWE):

S. Con. Res. 30. A concurrent resolution expressing the support of the United States Congress for the initial efforts of President Ernesto Zedillo of Mexico to eliminate drug-related and other corruption within the political system of Mexico and urging the President of the United States to encourage President Zedillo to continue with reforms, and for other purposes; to the Committee on Foreign Relations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. HATCH:

S. 1314. A bill for the relief of Saeed Rezai; to the Committee on the Judiciary.

PRIVATE RELIEF LEGISLATION

Mr. HATCH. Mr. President, I rise today to introduce private relief legislation on behalf of my constituents, Mr. Saeed Rezai, and his wife, Mrs. Julie Rezai.

As my colleagues are aware, those immigration cases that warrant private legislation are extremely rare. In fact, it has been nearly 6 years since I last introduced a bill to grant such relief. Indeed, I had hoped that this case would not require congressional intervention. Unfortunately, it is clear that private legislation is the only means remaining to ensure a thorough and comprehensive Justice Department review of a number of specific unresolved questions in Mr. Rezai's case.

I wish to take a moment, Mr. President, to provide something by way of background to this somewhat complicated case and to explain the urgency of this legislation. Mr. Rezai first came to the United States in 1986. On June 15, 1991, he married his current wife, Julie, who is a U.S. citizen. Shortly thereafter, she filed an immigrant visa petition on behalf of her husband. Approval of this petition has been blocked, however, by the application of §204(c) of the Immigration and Nationality Act. Section 204(c) precludes the approval of a visa petition for anyone who entered, or conspired to enter, into a fraudulent marriage. The Immigration and Naturalization Service [INS] applied this provision in Mr. Rezai's case because his previous marriage ended in divorce before the conditions on his residence were lifted. In deportation proceedings following the divorce, the judge was very careful to mention that there was no proof of false testimony by Mr. Rezai, and he granted voluntary departure rather than ordering deportation because, in his words, Mr. Rezai ''may be eligible for a visa in the future.''

Despite these comments by the immigration judge, the INS has refused to approve Mrs. Rezai's petition. An appeal of this decision is currently pending before the Board of Immigration Appeals [BIA]. In the meantime, Mr. Rezai appealed the initial termination of his lawful permanent resident status in 1990 and the denial of his application for asylum and withholding of deportation. In August of this year, the Tenth Circuit Court of Appeals denied this appeal and granted him 90 days in which to leave the country voluntarily or be deported. Under current law, there is no provision to postpone Mr. Rezai's deportation pending the BIA's ruling on the current immigrant visa petition filed by his wife.

Mr. President, there is no doubt that deportation would be the source of extraordinary hardship to both Mr. and Mrs. Rezai. Throughout all the proceedings of the past 4 years, no one including the INS, has questioned the validity of their current marriage. In fact, the many friends and acquaintances I have heard from have emphatically asserted that their marriage is as strong as any they have seen. Given the prevailing political and cultural climate in Iran, I would not expect that Mrs. Rezai will choose to make her home there. Mr. Rezai's deportation will thus cause either the destruction of their legitimate marriage or the forced removal of a U.S. citizen and her husband to a country unfamiliar to either of them, and in which they have neither friends nor family.

It should also be noted that Mr. Rezai has been present in the United States for nearly a decade. During this time he has assimilated to American culture and has become a contributing member of his community. He has been placed in a responsible position of employment as the security field supervisor at Westminster College where he has gained the respect and admiration of both his peers and his superiors. In fact, I have received a letter from the interim president of Westminster College, signed by close to 150 of Mr. Rezai's associates, attesting to his many contributions to the college and the community. This is just one of the many, many letters and phone calls I have received from members of our community. Mr. Rezai's forced departure in light of these considerations would both unduly limit his own opportunities and deprive the community of his continued contributions.

Finally, Mr. Rezai's deportation would be a particular hardship to his wife given the fact that she was diagnosed earlier this year with multiple sclerosis [MS]. She was severely ill for some time and was taking a number of medications for her condition. Although Mrs. Rezai's health since the initial diagnosis of MS has improved, her physician has stated that severe symptoms may return at any time and that rapid deterioration could ensue as a result of the stress being placed upon her by her husband's immigration proceedings.

Mr. President, I firmly believe that we must think twice before enforcing an action that will result in such severe consequences as the destruction of Mr. and Mrs. Rezai's marriage and the endangering of Mrs. Rezai's already fragile health. At a minimum, the outstanding questions regarding the propriety of the denial of Mr. Rezai's current immigrant visa petition need to be addressed. The legislation I am introducing today will ensure that the necessary information is gathered to address these questions, that the Justice Department will conduct a comprehensive review of Mr. Rezai's case in light of this information and that Mr. Rezai's deportation will be stayed pending the outcome of this review.

By Mr. DOLE (for himself, Mr. MOYNIHAN, Mr. WARNER, Mr. HEFLIN, Mrs. HUTCHISON, Mr. BURNS, Mr. D'AMATO, Mr. DEWINE, Mr. COVERDELL, Mr. COCHRAN, Mr. FAIRCLOTH, Mr. BROWN, and Mr. STEVENS):

S. 1315. A bill to designate the Federal Triangle Project under construction at 14th Street and Pennsylvania Avenue, Northwest, in the District of Columbia, as the ''Ronald Reagan Building and International Trade Center''; to the Committee on Environment and Public Works.

THE RONALD REAGAN BUILDING AND INTERNATIONAL TRADE CENTER ACT

Mr. DOLE. Mr. President, earlier today, I was joined by a number of my Senate colleagues, and by Congresswoman ANDREA SEASTRAND of California in announcing the introduction of legislation to designate the Federal Triangle project as the ''Ronald Reagan Building and International Trade Center.''

Like most who work in Washington, I have enjoyed watching the monthly progress made on the construction of what, upon its completion in 1997, will be an important addition to this city's architectural landscape.

And in my view, Congresswoman ANDREA SEASTRAND had come up with exactly the right name for the project.

President Reagan always believed that Government and the private sector should be partners and not adversaries. And the Federal Triangle project—authorized during the Reagan administration—was constructed in that spirit.

As Senator MOYNIHAN, who is a cosponsor of this legislation, was the driving force behind congressional approval of the project. And he pointed out on the Senate floor in 1987 that the project's construction involved no appropriated Federal funds.

Rather, money was borrowed from the Federal Financing Bank, and will be repaid with revenues derived from leasing office space. It is anticipated

that after 30 years, the Federal Government will own the building outright.

It is also fitting to name a building that will house an international trade center after President Reagan, because no one stood stronger for free and fair trade than he did.

While naming a building can certainly not repay the debt America owes to Ronald Reagan, it is a fitting tribute to a man who transformed this city, this country, and the entire world.

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

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

S. 1315

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

SECTION 1. DESIGNATION.

The Federal Triangle Project under construction at 14th Street and Pennsylvania Avenue, Northwest, in the District of Columbia, shall be known and designated as the ''Ronald Reagan Building and International Trade Center''.

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the building referred to in section 1 shall be deemed to be a reference to the ''Ronald Reagan Building and International Trade Center''.

By Mr. KEMPTHORNE (for himself, Mr. CHAFEE, Mr. BAUCUS, Mr. REID, Mr. KERREY, Mr. DOLE, Mr. DASCHLE, Mr. WARNER, Mr. SMITH, Mr. FAIRCLOTH, Mr. INHOFE, Mr. THOMAS, Mr. MCCONNELL, Mr. JEFFORDS, Mr. HATCH, Mr. SIMPSON, Mr. DOMENICI, Mr. BURNS, Mr. CRAIG, Mr. BENNETT, Mr. EXON, Mr. CONRAD, Mr. HATFIELD, and Mr. LAUTENBERG):

S. 1316. A bill to reauthorize and amend title XIV of the Public Health Service Act (commonly known as the ''Safe Drinking Water Act''), and for other purposes; to the Committee on Environment and Public Works.

THE SAFER DRINKING WATER ACT OF 1995

Mr. KEMPTHORNE. Mr. President, just over a decade ago, the Environmental Protection Agency developed a research plan to improve our understanding about cryptosporidium, a tiny disease-carrying microbe that can show up in our drinking water supply. Not much happened with that study plan and cryptosporidium was not regulated by the agency. Unfortunately, the failure to carry out the research necessary to support a regulation led to a failure in public health protection. In the past several years, we have witnessed outbreaks of cryptosporidiosis, which we believe to have been water-borne, in Las Vegas, San Francisco, and Milwaukee. While not terribly harmful to most Americans, the microbe can prove fatal for those with weakened immune system.

This tragedy could and should have been avoided. But the Environmental Protection Agency is not solely responsible for this failure of public health protection. The truth is that the current safe drinking law discourages the Environmental Protection Agency from concentrating its resources on regulating contaminants posing the highest health risks like cryptosporidium, a microbe scientists have known about since the 1970's. Instead of concentrating government resources on microbes causing acute and immediate health effects, the Safe Drinking Water Act requires EPA to regulate a long list of contaminants, regardless of whether or not they pose a threat to public health, regardless of whether they actually occur in drinking water, and oftentimes at the expense of regulating contaminants that pose a more serious and immediate health threat.

After a 2½-year effort to reauthorize the present drinking water statute, I and my colleagues on the committee have come to the conclusion that we need a better, safer, smarter Safe Drinking Water Act. Congress must write a better law that ensures that the water Americans drink is safe, makes wiser use of government resources, corrects the mistakes and unintended consequences of existing law, and anticipates and addresses future drinking water concerns.

Congress must write a law that gives EPA flexibility to set a drinking water standard based on peer reviewed science and the benefits and risks associated with contaminants. Congress must also commit the dollars to carry out the needed research to help identify those contaminants that pose the most serious health concern. Congress must insist on having a public record to educate the American public about the risks they face from a particular contaminant, and the costs to regulate it. Congress must also allow States and local governments to be full and independent partners in the development, implementation, and enforcement of drinking water regulations.

Guided by these goals, supported by Republican and Democratic State and local officials who work every day to provide safe drinking water to their own families, friends, and neighbors, today I introduce legislation to renew and improve the Safe Drinking Water Act.

I am joined in introducing this bill by Senator CHAFEE, the chairman of the Senate Environment and Public Works Committee; Senator BAUCUS, the ranking member of that committee; Senator REID, the ranking member of the Senate Subcommittee on Drinking Water, Fisheries and Wildlife; and Senator KERREY, who has been instrumental in negotiations last year and this year to bring sense into this particular public health statute. For 9 long months we have labored to produce a bill that we think will improve public health protection and is, at the same time, responsive to the need of States and communities across the country to be able to target scarce resources to high priority health risks, and not on trivial risks.

This legislation combines the best provisions of the bill the Senate passed last year with improvements suggested by those responsible for providing safe drinking water. The bill protects public health better than current law, and it will not roll back or weaken existing standards and public health protection.

I would like to touch on some of the highlights of the bill:

First, the bill authorizes the commitment of Federal resources to assure that the Nation's drinking water supply is safe and makes sure that the money is targeted to our most serious problems. One billion dollars is authorized annually for a drinking water State revolving loan fund, which itself will be matched by the States with another 20 percent. The committee recognizes that many communities are financially strapped and cannot afford to install treatment to ensure safe water supplies. This money will help fund compliance with drinking water standards, with special forgiveness provisions for disadvantaged communities.

The bill also authorizes roughly $53 million for health effects research, especially research into the health effects of cryptosporidium, disinfectants and disinfection byproducts, arsenic, and related research on sensitive population groups, like children, elderly, pregnant women, and those with serious illnesses. As I reviewed our progress towards improving the quality of the Nation's drinking water, I was especially dismayed to learn how poor our research efforts have been. Poor research means poor standards, and either poor health protection or overprotection at an unnecessarily burdensome cost. Therefore, we have included in the bill a 10 percent set-aside of the top of the State revolving loan fund that the administrator may use to support essential health effects research.

Third, the bill requires EPA to use the best available peer-reviewed science in identifying and regulating contaminants. It repeals the requirement that the agency regulate 25 new contaminants every 3 years, and sets up a process that will ensure that EPA has the authority and the resources to regulate those contaminants that pose the greatest risk, instead of doing those that pose a trivial risk. Furthermore, to help the agency set priorities, it is required to address only those contaminants that actually occur in drinking water, or have a substantial likelihood of doing so.

Fourth, the bill makes modifications to the current method for setting drinking water standards. Today, the administrator is always required to set a standard at the level that is technologically feasible. In some instances, this does not make sense: The costs can be excessively high in relation to the health benefits. Under this bill, we

allow the administrator to set a standard at a different level when it makes sense to do so.

In preparation for setting every new standard, the administrator will conduct a full analysis of the health risk reduction benefits that can be achieved from a maximum contaminant level that is technologically feasible, and other levels that might be appropriate to consider on the basis of risk, or benefit-cost. That analysis will be published for public comment and then becomes the basis for making a decision about whether the technologically feasible level is justified, or whether some other level is appropriate.

If the technologically feasible level is not justified, looking at costs to those public water systems serving over 10,000 people and the costs to those systems that are not likely to get a variance, the administrator may propose a maximum contaminant level that is justified. If justified, however, the administrator will be required to promulgate a standard that is as close to the health goal as is feasible.

Fifth, the bill establishes new deadlines for the issuance of some very important contaminants. These deadlines are consistent with the EPA's desire to have flexibility to focus on higher priority contaminants, and, where necessary, allows the administrator time to carry out critical research to support the standard setting process. The bill also preserves the negotiated rulemaking for disinfectants and disinfection byproducts, which includes cryptosporidium, and its makes clear that the administrator has the authority to consider and balance the risks between the disinfection byproducts and microbial contaminants.

Sixth, the bill provides new authority for the administrator to regulate contaminants on an interim basis where there is an urgent public health concern.

Seventh, the bill strengthens the existing partnership between the Federal Government and State government in the administration and implementation of the Safe Drinking Water Act. It preserves the strong role for the Federal Government in developing drinking water standards and supporting State primacy, but allows States the flexibility to tailor Federal monitoring and other requirements to meet the needs in their States. While the bill makes a few changes in enforcement provisions, the bill retains the current law's emphasis on compliance-oriented strategies to encourage better compliance among public water systems, rather than formal, punitive enforcement actions.

Eighth, the bill establishes a new process by which States may grant variances to small systems, those serving under 10,000, that are unable to comply with Federal drinking water requirements. As part of receiving a variance, a public water system will be required to install appropriate affordable technology that will result in an overall improvement in drinking water quality during the period of the variance. Rather than adjusting the overall national standard to a level that is affordable for the smallest of systems, the committee chose to help these same systems through a new variance provision. The variances must adequately protect public health, and citizens can petition EPA to overturn a variance granted by a State if that statutory requirement is not met.

Ninth, the bill helps small water systems, usually in rural areas, provide safe and affordable drinking water to their communities. Technical assistance, State revolving loan funds, a requirement that EPA identify treatment technologies affordable for small systems, and a new emphasis on helping systems to develop the financial, managerial, and technical capacity to meet Federal drinking water requirements, will do much to encourage the States and EPA to redirect time and attention to the problems and concerns of these smallest water systems.

Finally, I believe the bill looks toward the future, anticipates the drinking water needs and concerns of the 21st century, and establishes a framework to address these issues. In particular, the bill provides for voluntary, locally-driven, incentive based partnerships to provide for the protection of source water. It is crafted to avoid Federal involvement in local land-use planning issues and to allow real source water quality problems to be addressed in a cooperative, non-adversarial process. We have seen great success with local watershed planning initiatives, and I believe empowering local communities to address source water concerns is the right way to go.

Also, the bill recognizes that many public water systems are having trouble meeting Federal requirements. The reasons are many. Sometimes it is a lack of an adequately trained operator for the treatment system, or a lack of skill in capital planning, or an inadequate rate-base to support the costs of compliance. Sometimes the problem is a result of the rapid pace at which new Federal regulations were being promulgated and the difficulties in understanding, financing, and implementing them.

Whatever the reason, the bill includes a new section that asks the States to develop a strategy for helping public water systems meet the demands being made of them, to have the legal authority to prevent new water systems from starting that don't have the financial, technical, and managerial capacity to meet Federal requirements, and to report on those systems that have a significant history of noncompliance. States retain authority over training and certification of public water system operators, but the bill will increase the number of trained and certified operators.

Like source water protection, the capacity development strategy depends largely on nonregulatory, noncommand, and control approaches to addressing a long-term problem. As such, I believe they will break new ground in terms of the Federal-State partnership, and in terms of building local community resources to address drinking water problems.

Mr. President, I urge my colleagues to join Senators CHAFEE, KERREY, BAUCUS, REID, INHOFE, WARNER, FAIRCLOTH, MCCONNELL, SMITH, THOMAS, JEFFORDS, SIMPSON, BURNS, DOMENICI, CRAIG, EXON, and I in sponsoring this bill. It has the strong support of State and local officials and water treatment experts. The National Governors Association, the U.S. Conference of Mayors, the National Conference of State Legislators, the League of Cities, the National Association of Counties, the American Water Works Association, the Association of Metropolitan Water Agencies, the Rural Water Association and the Association of State Drinking Water Administrators have united together to support this bill.

These endorsements are important. Congress ought to listen to those directly responsible for implementing the Drinking Water Act. I have never met a single mayor, Governor, or public water official who would do anything to threaten public health. Not only do their own families drink the water they provide, they know that failure to provide safe water will have repercussions.

In 9 months of discussions with these State and local leaders, two messages emerged. Their first message was that we must recognize the tremendous progress this country has made in providing Americans with safe drinking water. The United States is numbered among those countries of the world that enjoy the safest drinking water. Nowhere else can 243 million people turn on their taps and drink the water with confidence and without fear. We ought to be grateful for that, and proud of America's leadership in assuring that our drinking water is safe and in helping other countries to do the same for their people.

It has not always been that way. There was a time when our grandparents and great grandparents regularly and routinely died of cholera and typhoid contracted through the water they drank. Their journals are filled with the sorrows of untimely deaths that swept through whole communities. In the United States today, that pain and suffering rarely occurs.

But when it does happen, it points out the flaws of the current law, and why it must be reformed. And that leads to the second message from State and local leaders.

State and local governments are overwhelmed by the new and changing administrative requirements imposed by the Federal Government, the rigidity with which they are applied, the lack of financial resources to do the job, and the micromanagement from Federal agencies. While many States, including Idaho, have fought difficult

battles to impose fees to cover drinking water program costs in their States, they see the Federal Government constantly increasing their work load and the administrative requirements. At the same time, the Federal financial commitment to the drinking water program, in relation to other environmental programs, is falling.

The irony is that Federal water policy leaders agree with their State and local partners. President Clinton's former Deputy EPA Administrator Robert Sussman bluntly sums up the issue:

> Safe Drinking Water Act implementation has harmed the agency's credibility by becoming a potent symbol of the rigidity and costliness of federal mandates on local governments and the overprotectiveness of the EPA standard-setting process. Reforms in both laws should strive for maintaining environmental protection while achieving more flexibility in priority setting, lower compliance costs, and greater state and local involvement in decision making.

Congress' own watchdog, the General Accounting Office agrees with Mr. Sussman. To quote from two recent reports:

> States often defer or eliminate important elements of their drinking water programs in order to devote resources to developing and implementing a growing list of regulations. ''For example, 12 drinking water officials from 16 states noted that they were spending more resources on developing new programs and regulations, as required by the 1986 SDWA amendments, than on conducting vital water system inspections (sanitary surveys) or compliance reviews. These managers expressed concern that, as a result, compliance rates as well as water quality could be suffering.
>
> 94% of the state drinking water program officials say that mandatory implementation of new program requirements within federally mandated time frames has caused fiscal stress in their state programs and has caused some state programs to discontinue or reduce activities they consider to be more environmentally significant.

Senators who need further confirmation need only consult water treatment experts in their States. In my own State, McCall, ID, population 2,000, must invest in a new wastewater treatment plant, a new filtration system and make improvements in its infrastructure to deliver drinking water. As one community leader told me the other day, ''We've seen a 500 percent increase in our sewer rates, and we're struggling. If we have to go back and raise rates again, or float a bond, or whatever it takes to finance compliance with Federal requirements, we need to know that what we're being asked to do makes sense in terms of public health protection.''

Or, as another public utility official told me, every week he meets with residents struggling to afford present utility rates. ''When I sit across from a woman with her three small children, trying to find ways to accommodate her limited budget so that she can cover other family necessities, I want to know that when I have to raise rates, I can tell her that it is really necessary to keep her kids from getting sick through the water they drink.''

It is getting harder and harder to convince citizens that Federal drinking water regulations make sense. The current law's inflexibility and needless rigidity emphasizes quantity of regulation over quality of regulation. By law EPA must regulate a specific list of 83 contaminants, plus an additional 25 contaminants every 3 years, regardless of whether those contaminants occur in drinking water or pose a threat to public health. EPA is absolutely precluded from concentrating its resources on those contaminants in drinking water that present the highest health risk. If it wants to do that, EPA has to persuade Federal judges and plaintiffs to let them extend their deadlines on lesser priority contaminants. So long as current law remains in place, it does not matter what we as Members of Congress think. It does not matter what the administrator thinks, nor what the mayor of Milwaukee and his residents think.

Furthermore, under current law, it does not matter whether the Federal standard for a particular contaminant is appropriate. It does not allow EPA the time or the money to write regulations based on good, peer-reviewed science and good risk assessments, and EPA must always write the standard based on what is technologically feasible, without considering the benefits and risks of regulating to that strict level. As a result, EPA's credibility as a protector of public health is tarnished. Where the science and the costs do not justify the standard, EPA is forced either to manipulate the process to get a reasonable result, to avoid regulating until it has better information, or to regulate strictly.

These are the problems the legislation being introduced today wants to solve. As I said earlier, this bill takes the best provisions of the bill the Senate passed last year and builds on them. It is a good bill that will improve public health protection. I ask unanimous consent that a section-by-section explanation of the bill be printed in the RECORD.

In conclusion, recent outbreaks of cryptosporidiosis, the experience of our State and local partners, and the responsibility to provide safe drinking water into the 21st century require us to write a better, safer, smarter Safe Drinking Water Act. I look forward to working with all those who share this goal to achieve this goal.

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

SAFE DRINKING WATER ACT AMENDMENTS OF 1995—SECTION-BY-SECTION ANALYSIS

SECTION 1. SHORT TITLE; TABLE OF CONTENTS; REFERENCES

The bill is entitled the ''Safe Drinking Water Act Amendments of 1995''.

SECTION 2. FINDINGS

The Congress finds: that a substantial number of public water systems are having difficulty meeting the requirements of the Safe Drinking Water Act because of technical and financial limitations and need greater assistance; that modifications in administration of the program could promote a more productive partnership with the States; that the quality of the science supporting drinking water standards needs improvement; and that risk assessment and benefit-cost analysis are important and useful tools to improve the efficiency and effectiveness of drinking water regulations.

SECTION 3. STATE REVOLVING LOAN FUNDS

The bill establishes a new State Revolving Loan Fund (SRF) program. The Federal Government will provide capitalization grants to State-run SRFs. States will use these funds, along with their own contributions, to make grants and loans to public water systems to facilitate compliance with the Safe Drinking Water Act. The bill includes an authorization of $1 billion per year through 2003 for capitalization grants.

The Administrator may enter into an agreement with a State to provide capitalization grants for a Revolving Loan Fund, if the State establishes a loan fund and agrees to conditions, including providing a 20% State match, use of loans in compliance with an intended use plan, and proper financial management.

All of the States already operate SRFs for wastewater treatment construction under the Clean Water Act. A State may consolidate management of the new drinking water SRF with its existing clean water loan fund, provided that accounting for drinking water loans and repayments remains separate. A Governor of a State may transfer up to 50 percent of the funds provided to the drinking water loan fund each year to the loan fund authorized under the Clean Water Act. An equal amount may be taken from the clean water fund in a State and transferred to the drinking water fund. The authority to establish priorities for loans and grants to public water systems is to remain with the State agency implementing the drinking water program.

In fiscal years 1994 through 1997, funds are allocated among the States based on a grant formula used to allocate funds for Public Water System Supervision (PWSS) grants, a long-standing grant program that provides funds to the States to support administration and enforcement of the existing law. After fiscal year 1998, funds are to be allocated according to a new formula developed by the Administrator based on a survey of drinking water needs in each State. This needs assessment is already underway.

In addition to the allocation for States, 1.5% of the Federal grant funds are reserved for Indian tribes and 0.5% of the funds are reserved for territories. Indian tribes, territories, and the District of Columbia may receive direct grants rather than loans.

Each State is authorized to reserve up to 2 percent of its grant or $300,000, whichever is greater, to provide technical assistance to small water systems. Assistance may include financial management, planning and design, source water protection programs, system restructuring, and other measures for capacity development or water treatment.

Projects eligible to receive loan and grant assistance are capital expenditures for: compliance with national primary drinking water regulations; upgrading of drinking water treatment systems; replacement of private wells where they present a significant health threat; and restructuring of systems and the development of alternative sources of water supply.

Drinking water systems eligible for assistance are community water systems (whether publicly or privately owned) and non-community water systems that are owned by a

government or non-profit organization. States may not provide assistance to systems with a history of noncompliance, unless steps are taken to assure that the system will have the capacity to comply with requirements of the Safe Drinking Water Act over the long term.

States may assist disadvantaged communities through grants and forgiveness of loan principal. Each State is to develop its own affordability criteria to determine which public water systems are eligible for grants, rather than loans. States may assist disadvantaged communities by forgiving a part of a loan or by extending the repayment period for a loan to up to 30 years. The total amount of grants and loan forgiveness provided by a State in any fiscal year may not exceed 30% of the amount of its capitalization grant from EPA.

Each State may reserve up to 4% of the capitalization grant for administration of the SRF fund. In addition, a State may use a portion of the capitalization grant to support its Public Water System Supervision program. The State may use up to 10 percent of its annual grant to support programs for source water protection and capacity development.

SECTION 4. SELECTION OF CONTAMINANTS; SCHEDULE

The Safe Drinking Water Act Amendments of 1986 required EPA to issue standards for 83 specific contaminants by not later than 1989. That work has largely been completed, but EPA has yet to issue new standards for arsenic, sulfate, radon and other radionuclides. The 1986 Amendments also required EPA to establish standards for an additional 25 contaminants every 3 years beginning in 1989. EPA has not issued any standards to comply with this requirement but has proposed regulations for 12 disinfection byproducts and for *Cryptosporidium* in partial fulfillment of this duty. An additional 13 contaminants (Known as the Phase Vib rule) are under study.

The bill repeals the requirement that EPA regulate an additional 25 contaminants every 3 years. EPA is required to complete regulations for 12 disinfectants and disinfection byproducts, the Enhanced Surface Water Treatment Rule and a national primary drinking water regulation for *Cryptosporidium*.

Not later than July 1, 1996, the Administrator is to publish a list of high priority contaminants not currently regulated. EPA is to develop a research plan for each of the listed contaminants to acquire information on health effects and the occurrence of the contaminant sufficient to determine whether the contaminant should be regulated under the Act.

Beginning in the year 2001, EPA is required to make a regulatory decision with respect to at least 5 of the listed contaminants every 5 years. EPA may decide that the contaminant should not be regulated, that there is insufficient information to make a determination, or that a maximum contaminant level or treatment technique for the contaminant should be promulgated under the Safe Drinking Water Act. The Administrator is to establish national primary drinking water regulations for those contaminants that occur at concentration level and at frequencies of public health concern.

SECTION 5. RISK ASSESSMENT, MANAGEMENT AND COMMUNICATION

The bill requires improvements in the scientific foundations for drinking water standards and better public communication of the potential risks of adverse health effects associated with contaminants in drinking water.

The Administrator is to conduct a benefit-cost analysis for each national primary drinking water regulation containing a maximum contaminant level (MCL) or treatment technique before it is proposed. The analysis will also include consideration of alternative MCLs or treatment requirements. The study is to include a determination of the costs and benefits associated with each alternative MCL or treatment technique relative to the other standards under consideration.

The analysis is to incorporate information on risks to subgroups that may be at greater risk than the general population for adverse health effects as the result of exposure to the contaminant. The Administrator is to publish and seek comment on the study and is to use an advance notice of proposed rulemaking to seek comment whenever the costs of the national primary drinking water regulation are expected to exceed $75 million.

SECTION 6. STANDARD-SETTING; REVIEW OF STANDARDS

Standard-setting under the current Safe Drinking Water Act is a two-step process. First, EPA identifies a concentration level for a contaminant below which there will be no adverse effect on human health. This is called the maximum contaminant level goal or MCLG. For cancer-causing substances, the MCLG has always been set at zero.

In a second step, EPA sets the actual enforceable standard, called the maximum contaminant level or MCL, as close to the goal as feasible. Feasible means the level that can be reached using the best available treatment technology that is affordable for large, regional drinking water systems.

This approach to standard-setting is taken because the majority of Americans (80%) receive their drinking water from large systems and economies of scale in treatment technology make safe water very affordable.

On the other hand, this approach to standard setting has caused problems with implementation of the Act. First, standards written under the approach taken by current law can impose very high costs on households served by small systems. Second, for some contaminants that occur at relatively low concentrations and are regulated for their cancer-causing effects with a goal of zero exposure, the current approach has led to high costs per cancer case avoided. And third, treatment techniques employed to reduce the risk from some contaminants may actually increase the health risks posed by other contaminants in drinking water. For instance, chlorination of drinking water to kill pathogenic organisms increases cancer risks from chemicals, called disinfection byproducts, that form in reaction with the chlorine.

To address these problems, the bill provides EPA with discretion to consider the benefits and costs and the potential for offsetting health risks associated with proposed standards. In addition to this standard-setting flexibility, the bill amends the variance provisions of the law to ensure that small systems are not required to employ treatment technologies that are unaffordable for their consumers.

The bill makes the following changes to the standard setting authority of the Safe Drinking Water Act:

1. EPA is authorized to set the maximum contaminant level goal (MCLG) for a contaminant that is a known or probable human carcinogen at a level other than zero, if the Administrator determines that there is a threshold below which there is unlikely to be any increase in cancer risk and the MCLG is set at the threshold level with an adequate margin of safety;

2. At the time that the Administrator promulgates a maximum contaminant level (MCL), the Administrator must also publish a determination as to whether the benefits of the MCL justify the costs;

3. EPA is authorized to set a maximum contaminant level at other than the level that is as close to the goal as feasible, if application of the treatment techniques at the feasible level would increase health risks from other contaminants; this authority may be used to set the MCL or treatment technique for the contaminant and for other contaminants at a level that minimizes the overall health risk;

4. The Administrator is given discretionary authority to establish less stringent standards (than feasible), when the Administrator determines that the benefits of a maximum contaminant level set at the feasible level would not justify the costs to systems that must comply with the standard or the contaminant occurs almost exclusively in small systems; if EPA uses this authority, the standard is to be set at a level that maximizes health risk reduction at a cost that is justified by the benefits;

5. The authority to set less stringent standards based on a benefit-cost determination is not available for the regulation of disinfectants and disinfection byproducts (in Stage I or II) or to address the threat of *Cryptosporidium;* and

6. A determination that the health benefits of a standard do or do not justify the costs can only be set aside by a court, if it finds that the Administrator's determination is arbitrary and capricious.

The requirement in current law that the Administrator periodically review and revise each national primary drinking water regulation is extended from 3 years (in current law) to 6 years. Revision to standards are to maintain or provide for greater protection of human health. Existing standards may only be made less stringent in the future, if new science demonstrates that the current level of health protection can be achieved by a less stringent standard.

SECTION 7. ARSENIC

Arsenic is currently regulated under the Safe Drinking Water Act. The MCL is 50 parts per billion. Although arsenic is known human carcinogen by ingestion, the current standard was not established to address this adverse effect. The 1986 Amendments required the arsenic standard to be revised. EPA has not completed this duty because of substantial scientific uncertainty about the cancer-causing effect of arsenic at very low doses. If the arsenic standard were revised based on current policy, the standard might be set as low as 5 parts per billion. A standard at this level may impose unnecessary compliance costs, if there is a threshold for the cancer-causing effect of arsenic that is substantially above this level.

This bill allows additional time for research to resolve this scientific uncertainty. The deadline for revising the national primary drinking water regulation for arsenic is delayed until January 1, 2001. The Administrator is to adopt a research plan to resolve the outstanding questions with respect to the carcinogenic effects of low levels of exposure to arsenic within 180 days of enactment. Prior to proposing a revised arsenic standard, the Administrator is to conduct a formal review of the research results and consult with the Science Advisory Board.

SECTION 8. RADON

The Safe Drinking Water Act Amendments of 1986 required EPA to promulgate a national primary drinking water regulation for radon by 1989. EPA proposed a standard at 300 picocuries per liter (pC/L) in 1991. Congress suspended action on this regulation pending a review of the costs and benefits of the drinking water standard relative to other risks from radon in the environment.

The bill directs EPA to promulgate a standard for radon not later than 180 days after enactment. The standard is to be established at 3000 pcC/L, a concentration that

will reduce the health risks from radon in drinking water caused by inhalation (breathing radon that evaporates from water) to levels commensurate with risks from radon in outdoor air.

Under the provisions of the bill, EPA may subsequently revise the standard, but only if the Administrator determines, and the National Academy of Sciences and the Science Advisory Board concur, that revision is appropriate to address risks from ingestion (swallowing radon in the drinking water). The revised standard is to be no more stringent than necessary to reduce the combined inhalation and ingestion risk from radon to a level equivalent to the inhalation risk from radon in outdoor air at the national average level.

SECTION 9. SULFATE

The 1986 Amendments required EPA to establish a standard for sulfate. EPA has not completed this duty for two reasons. First, scientific information is not sufficient to determine the dose-response relationship for sulfate with a high degree of confidence. Second, because persons become quickly acclimated to sulfate in their drinking water, the adverse health effect from sulfate exposure (diarrhea) is experienced primarily by travelers, new residents and infants. In a rule proposed by EPA in December, 1994, the preferred option to protect these special populations relies on bottled water and public education.

The bill authorizes the Administrator to use public education and alternative water supplies (bottled water), rather than centralized treatment, to reduce the costs of a national primary drinking water regulation for sulfate. The Administrator is directed to complete a rulemaking for sulfate not later than 2 years after enactment.

The maximum contaminant level for sulfate promulgated under the Safe Drinking Water Act is not to be used by the Administrator for ground water remediation decisions under CERCLA or RCRA, unless the Administrator engages in a separate rulemaking under the authority of those statutes to establish a remediation standard for sulfate.

SECTION 10. TECHNOLOGY AND TREATMENT TECHNIQUES; TECHNOLOGY CENTERS

At the time that the Administrator promulgates a national primary drinking water regulation, the bill directs EPA to identify the treatment technologies that are feasible for systems of various sizes, including systems serving: between 3,300 and 10,000 persons; between 500 and 3,300 persons; and between 25 and 500 persons. The list of feasible technologies may also include package units for small systems and point of entry treatment equipment.

The Administrator is directed to make grants to institutions of higher education to establish no fewer than 5 centers that will provide training and technical assistance to small public water systems. Appropriations of $10 million per year through the year 2003 are authorized for this purpose.

SECTION 11. FILTRATION AND DISINFECTION

The 1986 Amendments required EPA to issue rules requiring filtration for all systems served by surface water sources and disinfection by all systems. The Surface Water Treatment Rule implemented the filtration and disinfection requirements for systems served by surface water sources and became effective in 1991. The disinfection requirement for systems served by ground water sources has not been promulgated.

The bill postpones promulgation of rules for the disinfection of drinking water from ground water sources until the Stage II rule for disinfectants and disinfection byproducts is issued. This will ensure that potential risks from disinfection byproducts are balanced with the benefits of disinfecting ground water supplies. The Administrator is authorized, in consultation with the States, to develop criteria to be applied by the States to determine which systems relying on ground water sources are to use disinfection.

The Administrator is directed to publish guidance to accompany the proposal of the Enhanced Surface Water Treatment Rule that identifies filtration technologies that are feasible for public water systems relying on surface water serving fewer than 3,300 persons.

SECTION 12. EFFECTIVE DATE FOR REGULATIONS

Section 1412(b)(1)) of current law is amended to require compliance with national primary drinking water regulations no later than 3 years after promulgation (extended from 18 months under current law). The compliance deadline can be extended for up to 2 years in general (by the Administrator) or for a particular public water system (by a State), if it is determined that additional time is needed for the capital improvement projects that will be necessary to meet new treatment requirements.

SECTION 13. VARIANCES AND EXEMPTIONS

Public water systems may get a variance from a national primary drinking water regulation under current law, if the quality of their source water makes it impossible to comply with the MCL even when best available treatment technology is employed. However, under current law the variance may only be granted after the best available treatment system has been installed and has failed to achieve the standard. This approach does not provide certainty for public water systems, because it forces investments in costly treatment plants, before the system can be assured that the investment will allow the system to come into compliance with the Act. The bill modifies the variance authority allowing public water systems to receive a variance on the condition that they install and operate best available treatment technology.

SECTION 14. SMALL SYSTEMS

The bill also modifies the variance provisions of the Act to authorize variances for small systems that cannot afford to comply with national primary drinking water regulations.

This new variance authority is to be exercised by the States. A State may grant the owner or operator of a public drinking water system serving 10,000 or fewer persons a variance from compliance with a maximum contaminant level or treatment technique of a national primary drinking water regulation if a system cannot afford to comply with the regulation and adequate protection of public health is ensured. The variance is to provide for the use of the best available treatment technology that is affordable for small systems.

A system that applies for a variance from a regulation under this subsection is not subject to enforcement for a violation of the regulation, until a variance is either granted or denied. If a variance is granted, the system has up to 3 years to comply with the terms of the variance. The variance is in effect for 5 years and reviewed every 5 years thereafter. A person who is served by the system seeking a variance may petition the Administrator to object to the granting of a variance, if the provisions of the variance are not in compliance with the Act.

A variance is not available for any contaminant regulated before January 1, 1986 or for an MCL or treatment technique intended to reduce the risks from pathogenic organisms in drinking water.

SECTION 15. CAPACITY DEVELOPMENT; FINANCE CENTERS

There are more than 200,000 public water systems in the United States. Some small systems, most often those owned and operated by groups of homeowners or other nongovernmental entities, do not have the technical, financial or managerial capacity to comply with the requirements of the Safe Drinking Water Act. The bill includes several provisions to assist these systems to improve capacity.

Within 4 years of enactment, each State is to develop and implement a capacity development strategy to assist public water systems that do not have the technical, managerial and financial capacity. The drinking water primacy agency in the State is to report to the Governor 2 years after the strategy is adopted and every 3 years thereafter on progress toward improving the technical, financial and managerial capacity of public water systems in the State.

Each State is to obtain the legal authority or other means to prevent the startup of new public water systems that do not have the technical, managerial or financial capacity to comply with the requirements of the Safe Drinking Water Act. States that have not adopted this authority lose 5% of their SRF grant in 1999, 10% in 2000 and 15% each year thereafter.

Within 1 year, each State is to prepare a list of public water systems that are in significant noncompliance with the requirements of the Safe Drinking Water Act. The State is to report on its efforts to bring such systems into compliance, through capacity development or enforcement actions, 5 years after enactment.

Grants to the existing network of Environmental Finance Centers are authorized at $2.5 million per year through the year 2003. The Centers are directed to establish a capacity development clearinghouse for public water systems.

SECTION 16. OPERATOR AND LABORATORY CERTIFICATION

Each community water system or nontransient noncommunity system receiving assistance from a State Revolving Loan Fund is to be operated by a trained and certified operator. The Administrator is to initiate a partnership with the States to develop recommendations regarding operator certification and to publish information for the States to use in designing training programs. The determination as to the level of training necessary to receive certification is to remain with the States.

If a system that has received assistance is operated by a person who is not certified, the Administrator is to withhold funds from the SRF capitalization grant of the State in an amount equal to the assistance that was provided to the system. Systems receiving assistance for the first time are to make a commitment to train operators before new treatment equipment supported by SRF loans or grants goes into operation.

The Administrator's guidance may also cover certification for laboratories that perform testing to meet the monitoring requirements of national primary drinking water regulations.

SECTION 17. SOURCE WATER QUALITY PROTECTION PARTNERSHIPS

As currently written, the Safe Drinking Water Act focuses principally on monitoring and treatment of drinking water to protect public health. Although the 1986 Amendments added pollution prevention provisions for sole source aquifers and the areas around wellfields for public systems, protecting the quality of source water to avoid the expense of treating contaminated water has not been

a major part of the national program. Building on the lessons from the wellhead protection efforts made under the 1986 Amendments, the bill authorizes a new source water quality protection partnership program to encourage the development of locally-driven, voluntary incentive-based efforts by public water systems, local governments and private parties to respond to contamination problems that would otherwise require treatment.

The bill provides for the delineation of source water protection areas for each public water system and, for priority source water areas, vulnerability assessments. The delineations and assessments are to be completed within 60 months, but may be conducted on a priority-based schedule to the extent that Federal funds are insufficient to pay for the delineations and assessments.

States may establish source water quality partnership petition programs. The purpose of a State program is to identify voluntary, incentive-based source protection measures to protect drinking water from contamination and to redirect Federal and State financial and technical assistance to support those measures.

Public water systems and local governments (in partnership with other persons who may be affected by these measures) many submit a petition to the State seeking assistance to carry out the recommendations of the partnership.

Petitions may only address contaminants that are subject to promulgated or proposed regulations and that are detected at levels that are not reliably and consistently below the maximum contaminant level.

State may use up to 10% of their annual SRF grants to provide loans for projects that are recommended by petitions approved under this program.

SECTION 18. STATE PRIMACY; STATE FUNDING

Under the Safe Drinking Water Act, EPA establishes drinking water quality standards that apply to all public water systems. Assuring compliance with these standards is a task achieved almost entirely by the States. Each State that submits a regulation that is no less stringent than the Federal standard is granted primary enforcement responsibility. 49 States have primacy for most regulations that have been issued under the Act.

Under current law, the deadline for submitting State regulations to retain primacy for new or revised drinking water standards is 18 months. That deadline is extended to 24 months. In addition, the bill provides States with ''interim'' primary enforcement authority during the period after the State regulation is submitted until such time as it is approved or disapproved by the Administrator. The State regulation is effective during this interim period.

EPA makes an annual grant to each State to support its enforcement efforts. The bill reauthorizes the grants for the Public Water System Supervision (PWSS) program at $100 million per year through the year 2003. In addition, States are authorized (under part G) to set aside funds from their SRF grants in amounts up to the amount the PWSS grant to use in administration of the PWSS program.

SECTION 19. MONITORING AND INFORMATION GATHERING

Each national primary drinking water regulation includes monitoring requirements to assure continuing compliance with the maximum contaminant level. These monitoring requirements impose substantial costs on pubic water systems. The bill requires the Administrator to review and revise existing monitoring requirements for not fewer than 12 contaminants within 2 years.

The bill authorizes States to develop and implement their own monitoring regime for each containment. The State requirements may be less stringent than Federal requirements but are to assure compliance and enforcement. This authority takes effect after the first cycle of monitoring under Federal regulations. The authority does not apply to contaminants that are pathogenic organisms. The State program must provide for monitoring at a frequency consistent with Federal requirements in systems where a contaminant has been detected, unless monitoring indicates that the level of the contaminant is reliably and consistently below the maximum contaminant level. The Administrator may act to approve or disapprove a State alternative monitoring program within 180 days of submission or may withdraw a State's authority to establish monitoring requirements, if the State program does not assure compliance and enforcement.

The Administrator or a State may suspend quarterly monitoring requirements applicable to small systems for any contaminant (other than a pathogenic organism or a contaminant that causes an acute effect, or a contaminant formed in the treatment or distribution system) that is not detected during the first quarterly sample in a monitoring cycle.

The Administrator is to establish a program of monitoring for the presence of contaminants which may warrant regulation in the future. The Administrator may list up to 20 contaminants. All systems serving more than 10,000 persons would be required to monitor for these contaminants. Each State would establish monitoring requirements for these contaminants for a representative sample of small systems within the State. An annual appropriation of $10 million is authorized to offset the costs of this monitoring. In addition, the Administrator may set aside $2 million per year of any appropriation for the State Revolving Fund to pay for testing costs associated with monitoring at small systems.

The Administrator is to establish a national database containing information on monitoring for regulated and unregulated contaminants.

SECTION 20. PUBLIC NOTIFICATION

Public water systems are required to notify their consumers when the system violates important public health provisions of the Act. The bill revises these requirements for public notification. The new requirements provide for immediate notification when a violation presents a serious threat to public health; written notification not less often than annually of violations of maximum contaminant levels or treatment technique requirements; and publication by the State of an annual report summarizing the status of compliance with the State.

States are authorized to modify the form and content of public notices to reflect the health threat posed by a violation and to ensure that the public understands the threat.

SECTION 21. ENFORCEMENT; JUDICIAL REVIEW

Enforcement actions to correct violations of the Act can be taken both by EPA and by a State with primary enforcement responsibility. Several modifications to the enforcement authorities of the Act are made by the bill.

The Administrator is directed to notify local elected officials before taking enforcement actions against public water systems in non-primacy States.

The Administrator or a State is authorized to suspend enforcement action with respect to a violation for a period of 2 years, if the violation is to be corrected through a consolidation or a restructuring during that period.

States are to adopt administrative penalties (of at least $1000 per violation for large systems) to facilitate enforcement of the Safe Drinking Water Act.

The maximum amount for an administrative penalty imposed by EPA is increased from $5000 to $25,000 per violation. Penalties in this amount may only be imposed after a full on-the-record hearing.

SECTION 22. FEDERAL AGENCIES

The Federal facilities provision of the Act is amended to clearly waive the sovereign immunity of Federal agencies and to allow citizens and States to seek penalties for all violations of the Act at Federal facilities.

SECTION 23. RESEARCH

The general research authorities are clarified and an authorization of $25 million is provided for each fiscal year to 2003. In addition, the Administrator is authorized to set aside $10 million per year from appropriations for the State Revolving Fund for the research on the health effects of drinking water contaminants with priority given to research on *Cryptosporidium*, disinfection byproducts, arsenic and research on subpopulations at greater risk for adverse effects. The bill includes new research programs for interactive risks of pathogenic organisms and the disinfection and disinfectant byproducts that result from efforts to control the pathogens and for risks to subpopulations that may be more sensitive to particular contaminants than the general population.

SECTION 24. DEFINITIONS

The definition of ''public water system'' is modified to include some systems that provide water by means other than a piped system (such as irrigation systems). The modification would exclude from regulation those connections to non-piped systems where alternative water supplies or treatment to levels that are equivalent to national primary drinking water regulations is provided before the water is used for drinking or cooking.

Definitions for 'community water system' and 'noncommunity water system' are added to the law and the definitions of 'State' and 'Indian tribes' are modified.

SECTION 25. GROUND WATER PROTECTION

The Administrator is authorized to make grants to the States to support general ground water protection programs. Federal grants may not be used for more than 50% of the cost of the program. The bill authorizations $20 million per year through 2003 for this grant program.

Grants to support State administration of the Underground Injection Control (UIC) program under part C are reauthorized through the year 2003 at $20.85 million per year.

Grants to support the wellhead protection program established by section 1428 are reauthorized through the year 2003 at $35 million per year.

Grants to support the critical aquifer protection program under section 1427 are reauthorized at $20 million per year through 2003. In addition, section 1427 is amended to reopen the grant application period.

The Administrator is to conduct a study of the extent and seriousness of contamination of private sources of drinking water not regulated under this Act and, within 3 years of the date of enactment, provide a report to the Congress describing the findings of the study and recommendations for needed actions.

SECTION 26. LEAD PLUMBING, PIPES AND PUMPS; RETURN FLOWS

Section 1417 is amended to ban the sale of pipe, plumbing fittings and plumbing fixtures that do not meet voluntary standards for lead leaching rates established by the National Sanitation Foundation within 2 years of enactment. If NSF fails to set lead leaching limits and establish testing protocols for

these items, the Administrator is authorized to set standards.

Section 3013 of P.L. 102–486 encouraging the use of heat pumps that return water to the distribution lines of public water systems is repealed.

SECTION 27. BOTTLED WATER

The Secretary of Health and Human Services is directed to establish regulations for the quality of bottled water for each contaminant for which a national primary drinking water regulation is issued, unless the Secretary determines that the contaminant is unlikely to present a risk to health through bottled water. The regulations are to be issued within 180 days after the tap water standard and are to be no less stringent than the standards that apply to tap water (drinking water supplied by public water systems).

SECTION 28. ASSESSING ENVIRONMENTAL PRIORITIES, COSTS AND BENEFITS

The Administrator is directed to identify and rank sources of pollution with respect to the relative degree of risk to public health and the environment. The Administrator is to evaluate the public costs associated with each source of pollution and the costs of complying with regulations designed to protect against risks caused by the pollution. The Administrator is to periodically report to Congress on the assessments conducted under this section. The Administrator's rankings and assessments of benefits and costs are to be reviewed by the Science Advisory Board.

SECTION 29. OTHER AMENDMENTS

The Chief of the Army Corps of Engineers is authorized to modernize the Washington Aqueduct that provides drinking water to the District of Columbia and several Virginia cities.

A requirement in section 1450 of current law for an annual report to the Congress on the activities of the Administrator is deleted.

Membership on the National Drinking Water Advisory Council is modified to include 2 members representing small, rural water systems.

Mr. CHAFEE. Mr. President, I am pleased to join with my colleagues to introduce this bill to reauthorize the Safe Drinking Water Act. Enacting this legislation is a high priority for the Environment and Public Works Committee. The bipartisan agreement that supports this bill gives us a great chance to achieve that goal.

We all agree that reform of the Safe Drinking Water Act is necessary. Public health protection has been strengthened by the many new standards that have been issued over the past few years. But the pace of standard setting and the costs of new treatment and monitoring requirements have been a strain for water suppliers, especially smaller communities.

This bill includes many provisions to ease the burden. There is the new grant program for drinking water revolving loan funds that President Clinton first recommended. States are authorized to reduce monitoring costs by developing their own testing requirements tailored to conditions in their region. Under this bill, States may also grant variances to the small systems that cannot afford to comply with the national standard.

That's reform, but we're not rolling back health protection which is now provided. No existing standard will be weakened. And the bill includes many new initiatives that will keep the national program moving forward. In addition to the SRF grants, there are new programs to prevent pollution of source waters used for drinking water supply. There is a program to develop technical capacity at small systems. The bill pushes hard for more and better science, including a research program to determine whether some groups like children or pregnant women or people with particular illnesses are more likely to experience adverse effects from drinking water contaminants. EPA will continue to review new contaminants and to make decisions on the need for national standards.

I want to thank each of my colleagues for the hard work they have put in on this bill. The star of this performance has been Senator KEMPTHORNE. He has spent months going over every detail of the legislation. And Senator BAUCUS blazed the trail for us last year with his bill that passed the Senate with almost unanimous support. My thank you also extends to the Water Office at EPA and to the coalition of State and local drinking water organizations that have worked so long and hard on this bill. Their expertise has been available at every step and has been very helpful.

I look forward to quick action by the committee and by the Senate on this bipartisan bill.

Mr. REID. Mr. President. For several months now there has been tough bipartisan negotiation to find common ground on the Safe Drinking Water Act. We began with S. 2019 which the Senate passed last Congress. Now, however, we have industry and State and local governments expressing in legislative language their need for more local control drinking water systems. I am cosponsoring this bill for two primary reasons.

First, there has been a great deal of compromise on both sides. Not everyone will be happy with some elements in this bill; both sides spent many hours working out the direction and the particulars of this bill. I am convinced that if this deliberative bipartisan process is going to produce legislation then this is how it will be done—through rational discussion and by taking the time to work out the disagreements. Through this process reasonable legislation will be passed out of the Senate.

And second, I am convinced that if we are going to pass a safe drinking water bill this year, then given the process and the bill before us, we need to proceed further in the bipartisan effort. My principle concern is whether there will be safe drinking water in the taps of homes across the country; whether the contaminants will be monitored sufficiently to warn our communities; and whether there will be accountability in a process so essential to the health and well being of our citizens. As I noted, this bill contains a great deal of compromise, but I believe that what we have all been able to maintain is the integrity of the goals and the mechanics of safe drinking water.

The EPA would still have the vital responsibility of regulating contaminants and setting standards while allowing for increased flexibility in implementing the regulations by the state and local water systems. A State revolving fund will be established to assist the States and rural systems. These and other provisions of the bill underscore the very deliberative compromise that has evolved. Perfect should not be an enemy to the good and looking for a perfect bill will not serve our constituents if we pass up a bill that will serve our communities well.

I commend Senators CHAFEE and KEMPTHORNE for their willingness to work together in this vital purpose. I appreciate Senator BAUCUS' leadership as the ranking member of the full Committee on Environment and Public Works.

Mr. BAUCUS. Mr. President, this is a solid bill. It builds on the work that was done, during the last Congress, to reform the Safe Drinking Water Act. It will reduce regulatory burdens while fully protecting public health. And it reflects a careful, bipartisan approach that puts the public interest ahead of partisan politics.

BACKGROUND

The Safe Drinking Water Act has guided Federal, State, and local efforts to assure that the water Americans drink is clean and pure. In the last several years, however, there has been growing concern that some provisions of the act misdirect Federal resources. There also has been concern that the act imposes regulatory burdens that local water systems simply can't comply with, no matter how hard they try. More specifically, critics of the act point to several flaws:

Unlike the Clean Water Act, the Safe Drinking Water Act does not provide federal financial assistance to help local water systems meet environmental mandates.

Small drinking water systems, including many small systems in my home State of Montana, have faced the greatest challenges in complying with the act's numerous and complex mandates.

The limited economies of scale of small systems have caused household water rates to skyrocket in recent years as communities financed drinking water projects.

Contaminant monitoring requirements have been overly prescriptive, and the requirement to regulate 25 new contaminants every 3 years is unrealistic and unnecessary.

The enforcement and public notification provisions are inadequate.

During the last Congress, the Environment and Public Works Committee unanimously reported legislation to reform the Safe Drinking Water Act, and

the Senate passed the legislation by a vote of 95 to 3. Unfortunately, the bill was not enacted into law.

THE SAFE DRINKING WATER ACT AMENDMENTS OF 1995

The bill that we are introducing today builds on the solid foundation created by last year's bill. The bill addresses each of the concerns with Safe Drinking Water Act. The bill expands funding, reduces regulatory burdens, and provides greater flexibility to those trying to provide safe drinking for all Americans—while not only maintaining but increasing public health protection.

To begin with, the bill provides substantial and sustained funding for drinking water projects. The bill authorizes new drinking water loan funds. Moreover, the bill allows a State to use its existing Clean Water Act loan fund to meet drinking water needs and, if appropriate, to use the drinking water loan funds to meet Clean Water Act needs. And, in some cases, the bill allows States to give a public water system a grant rather than a loan. That way, a State can provide special assistance to small, disadvantaged communities that have a particularly hard time providing safe drinking water at an affordable cost.

The bill reduces regulatory burdens, especially for small communities. It does so in several ways. Most significantly, the bill eliminates the requirement that EPA regulate 25 new contaminants every 3 years, whether or not there is a public health need to do so. Instead, EPA will review the health effects of currently unregulated contaminants in drinking water and determine whether, based on sound science, those contaminants pose public health threats and should be regulated. In other words, the bill reforms the act by allowing EPA to target resources to the greatest threats to drinking water.

The bill increases State flexibility. It authorizes a State to establish its own program for monitoring drinking water quality, and to reduce some monitoring requirements for small drinking water systems that have good compliance records. And it allows a State to take other steps to address the special needs of small communities. In Montana and elsewhere, the operators of small drinking water systems want to comply with the act, but cannot afford the cost of complying with many of the regulations. The bill's variance provision will allow small systems to provide safe, affordable water to their customers.

So the bill reduces regulatory burdens, and increases flexibility, in many ways. But in doing so, it does not relax existing standards or weaken provisions of the Act that are necessary to protect public health. In fact, in addition to allowing EPA, States, and local communities to target resources to the greatest threats, the bill improves the act's enforcement and compliance provisions. And it improves the important provisions that require water system operators to alert people about drinking water problems in their communities, especially problems that create health threats.

Putting all this together, the bill significantly reduces regulatory burdens and otherwise improves the operation of the Safe Drinking Water Act. At the same time, it not only maintains but increases public health protection.

A BIPARTISAN APPROACH

Mr. President, during this Congress, most debates about the environment have deteriorated into partisan battles. As a result, we have missed the opportunity to develop a consensus, a support of reforms that reduce regulatory burdens while improving environmental protection.

This bill that we are introducing today is a refreshing exception. Republicans and Democrats have worked together, cooperatively. There has been compromise, and nobody got everything that they wanted.

This process has not been an easy one. It's taken time, and it's taken painstaking negotiation. But because we have taken a bipartisan, cooperative approach, we have been able to develop a bill that will attract widespread support and can, I believe, quickly be enacted into law.

I very much appreciate the leadership and hard work of the committee chairman, Senator CHAFEE, the subcommittee chairman, Senator KEMPTHORNE, and the subcommittee ranking member, Senator REID. I look forward to working with them as we move forward to reform the Safe Drinking Water Act.

Mr. KERREY. Mr. President, this moment comes only after hours of hard work by Chairman CHAFEE, Senator KEMPTHORNE, Senator BAUCUS, and Senator REID. I want to take this opportunity to thank them for all of their commitment to this much needed reauthorization. Coming to agreement on this bill has not been easy. It is the product of many different points of view and carries important public health protection while providing reasonable regulatory relief for small communities.

Last year I became involved in the safe drinking water discussion because it is critical to the State of Nebraska. Ninety percent of our public water systems serve communities that are 2,500 or less in population. Those communities need and deserve flexibility to achieve the safest water possible for their citizens. This bill strikes an even balance between providing States with flexibility and the ability to affect decisionmaking; and allowing EPA to provide guidance and regulation.

I am an advocate of cost-benefit analysis which this bill contains. It allows public water systems to allocate their limited resources to those contaminants that will cause the greatest threat to public health. I know the concept is a tough one to write into legislation and I expect there will be some, including me, that want to make small changes. Overall, I have to say the language looks fair and I believe this bill achieves a carefully crafted balance.

For the last 2 years I have led the fight to keep EPA from publishing a drinking water standard for radon. The reason I did this is because the known health threat for radon is through inhalation, not ingestion. The greatest public threat from radon in drinking water is when you're in the shower. If left to the current process for setting standards, EPA would set the level for radon well below the level found in the air outside. The result of that standard would cost Nebraska's communities millions. I am quite pleased to see that the bill includes language that provides a permanent fix for the radon in drinking water issue.

The Safe Drinking Water Act exists to protect public health. In reviewing how EPA sets standards I saw a need to involve the Department of Health and Human Services and the Centers for Disease Control. This bill includes an active role for HHS and I strongly support that. In fact, I would like to see a larger role for HHS and I'm willing to work with the chairman on that point.

Again, I would like to thank Chairman CHAFEE, Senators KEMPTHORNE, BAUCUS, and REID and let them know that I am committed to helping them see this bill pass as quickly as possible. It is important to Nebraskans and all Americans.

By Mr. D'AMATO (for himself, Mr. MURKOWSKI, Mr. DODD, Mr. JOHNSTON, Mr. SHELBY, Mr. MACK, Mr. FAIRCLOTH, Mr. DOLE, and Mr. LOTT):

S. 1317. A bill to repeal the Public Utility Holding Company Act of 1935, to enact the Public Utility Holding Company Act of 1995, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

THE PUBLIC UTILITY HOLDING COMPANY ACT OF 1995

Mr. D'AMATO. Mr. President, today I introduce the Public Utility Holding Company Act of 1995. I am pleased to be joined by my colleagues on the Banking Committee, Senators SHELBY, MACK, FAIRCLOTH, and DODD; the chairman and ranking member of the Energy Committee, Senators MURKOWSKI and JOHNSTON respectively; and Senate Majority Leader DOLE and Majority Whip LOTT as sponsors of the bill.

Mr. President, this bill would repeal the Public Utility Holding Company Act of 1935 (''the 1935 Act'') and transfer certain regulatory functions from the Securities and Exchange Commission to the Federal Energy Regulatory Commission and the Public Service Commissions of various States. The bill is supported by the SEC, the energy industry, and Senators on both sides of the aisle.

In June, the SEC published a comprehensive report on the 1935 Act. In that report, ''The Regulation of Public-

Utility Holding Companies,'' the division of investment management stated that:

> The 1935 Act had accomplished its basic purpose and that its remaining provisions . . . either duplicated other State or Federal regulation or otherwise were no longer necessary to prevent recurrence of the abuses that led to its enactment.

The SEC Division of Investment Management reviewed the history of the 1935 act and the energy industry along with other subsequent administrative and legislative changes. The report's recommendation suggests that Congress conditionally repeal the act since the current regulatory system imposes significant costs, in direct administrative charges and foregone economies of scale and scope, that often cannot be justified in terms of benefits to utility investors.

In recommending a conditional repeal, the SEC noted that unconditional repeal of the 1935 act could expose consumers to some of the same abuses that it was enacted to prevent. As SEC Chairman, Arthur Levitt, cautions:

> [A]s long as electric and gas utilities continue to function as monopolies, the need to protect against the cross-subsidization of nonutility operations will continue to exist . . . the best means of guarding against cross-subsidization is likely to be thorough audits of books and records and federal oversight of affiliate transactions.

Mr. President, the legislation I introduce today, the Public Utility Company Act of 1995, would maintain the provisions of the 1935 act essential to consumer protection.

This bill would eliminate many of these burdensome and duplicative regulations while maintaining protection for energy consumers and ratepayers. For example, this legislation would allow holding companies to diversify into new business ventures. Diversification into utility or non utility business will increase competition and increase the flow of capital as non utility companies are able to enter into joint ventures with holding companies. Also, the integration requirements of the 1935 act, which prohibit any registered holding company from owning utility companies in more than one State, would be eliminated. Permitting ownership of utility companies in more than one state would allow holding companies to achieve greater efficiencies and lower administrative costs. The resulting savings can be passed on to consumers in lower energy rates.

The Public Utility Holding Company Act of 1995 provides State and Federal regulators with the necessary authority to examine books and records and conduct audits of public utility companies. It is important that the States be given the authority to examine the books and records of public utilities and be given the authority to examine the books and records of public utilities and their affiliates, to make sure that retail electricity rates are set fairly and that the cost of other ventures are not passed on to the captive utility rate payer. To be certain that this burden does not fall on the States alone, the FERC will share this function.

Transferring ratemaking functions to the States and the FERC also eliminates the regulatory gap created by the Supreme Court's Ohio Power decision, which effectively stripped the FERC of its authority to regulate holding company wholesale rate increases.

Mr. President, this bill puts in place the proper consumer safeguards to protect electric and gas utility ratepayers and stockholders from bearing the costs of diversification by registered holding companies.

Mr. President, the Public Utility Holding Company Act of 1935 has achieved the original congressional purpose—it broke up the mammoth holding company structures that existed more than half a century ago. The registration and disclosure requirements of the Securities Act of 1933 and the Securities Exchange Act of 1934 have become effective tools for the SEC to protect investors and ensure the integrity of the market for public utility holding company securities. Further, State Public Service Commissions have become effective retail energy regulators, who can protect their ratepayers.

Presently, only 11 electric utility companies and 9 gas companies are subject to the 1935 act; approximately 100 companies are exempt. The 20 registered utility companies are also regulated by States and the FERC. The same provisions that were originally enacted to protect consumers and investors have become unnecessary impediments to business. For example, to ensure that holding companies do not further abuse power, the 1935 act requires that the SEC give prior approval to all utility acquisitions. However, these acquisitions are subject to FERC and State approval, as well as that of the SEC, and are reviewed to comply with antitrust laws. This duplicative approval system often delays the acquisition of a new company for months or years, while providing no added protection to consumers.

Mr. President, the Banking Committee has consulted the Energy Committee, the SEC and the FERC as well as industry and consumer representatives in crafting this legislation to make sure appropriate regulatory authority is maintained in a new legal framework that allows holding companies to participate in new ventures and diversify without negative consequences to utility customers.

The Banking Committee intends to hold hearings on this legislation in the near future. Although some would like to tie Public Utility Holding Company Act reform to other more controversial energy-related issues, the time for this legislation is now. The repeal of the 1935 act will increase competition in the public utility industry without compromising investor and consumer protection. I urge my colleagues' support.

Mr. MURKOWSKI. Mr. President, I rise to cosponsor Senator D'AMATO's legislation to reform the Public Utility Holding Company Act of 1935.

Mr. President, this legislation is long overdue. The Public Utility Holding Company Act was enacted 60 years ago to curb serious abuses by public utilities that harmed consumers. PUHCA was needed in the 1930's, but now we live in a different world. By limiting activities and restricting corporate structure, PUHCA denies the companies that generate and sell electricity the flexibility necessary to respond to changing consumer needs and market circumstances. This legislation will eliminate unnecessary and costly regulation, retaining only that which is still needed to protect consumers.

Over the past 60 years a comprehensive State-Federal regulatory system has been developed to protect consumers. In a nutshell, State public utility commissions regulate transactions that are intrastate in nature, and the Federal Energy Regulatory Commission regulates those that are interstate in nature.

State public utility commissions perform their regulatory activities pursuant to State law, and the FERC performs its pursuant to the Federal Power Act. With the maturity of both State and Federal utility regulation—along with mature securities regulation by the Securities and Exchange Commission—PUHCA is now redundant at best.

In this connection, it should be noted that in some instances PUHCA is counterproductive, actually interfering with effective utility rate regulation by the FERC. For example, in Ohio Power a Federal court held that the SEC's utility decisions under PUHCA preempt the FERC's authority over utility rates under the Federal Power Act. This legislation addresses that issue by giving the FERC clear and exclusive authority to address matters within its statutory jurisdiction. In short, the streamlining of the regulatory system proposed by this legislation will not diminish needed consumer protection. It will enhance it instead. If the regulatory system created by PUHCA benefitted consumers, then the regulatory burdens it imposes might be justified. But as everyone now acknowledges, PUHCA is no longer needed to protect consumers. There is adequate and comprehensive regulatory authority in other laws. As a result, regulatory costs caused by PUHCA are simply passed on to consumers as higher rates without any offsetting consumer benefits.

Congress and the executive branch have long recognized that PUHCA creates serious regulatory problems, but up to now these problems have been addressed piecemeal. In 1978, the Public Utility Regulatory Policies Act provided an exemption from PUHCA for

certain types of electric power generators. In 1992, the Energy Policy Act gave additional exemptions to certain other types of electric power generators. The SEC is loosening its restrictions on non-utility activities as much as it can within the bounds of PUHCA. And the Congress is currently considering PUHCA exemptions to allow registered electric utilities to enter the telecommunications business, just the same as non-registered utilities.

These are all Band-Aid fixes to PUHCA; they help, but they do not address the fundamental problem. The need to legislatively reform PUHCA was recognized by the SEC's July 1995 report ''The Regulation of Public-Utility Holding Companies.'' This legislation is based on its recommendations to Congress.

Complete reform of PUHCA is needed, and it is justified. It is time to streamline and modernize the act. It is for these reasons that I am cosponsoring Senator D'AMATO's legislation.

Mr. President, there may be some who will try to use this legislation as a vehicle to restructure the electric utility industry, possibly to impose retail wheeling or to federally preempt State public utility commissions. I will strenuously resist any such effort. I have received assurances that Senator D'AMATO is of like mind.

This is not the time nor the place to make these kinds of changes. Retail wheeling and other competitive issues are not directly related to PUHCA reform. Moreover, retail wheeling and other Federal Power Act matters are entirely within the jurisdiction of the Committee on Energy and Natural Resources, not the Committee on Banking, Housing and Urban Affairs, to which this legislation will be referred. Electric utility issues are very complex, and they are very significant not only to consumers but also to this Nation's competitiveness and economic well being. These kinds of changes cannot, and will not be made without careful and complete consideration by the Committee on Energy and Natural Resources of all aspects of the issues and questions they raise.

Mr. JOHNSTON. Mr. President, I am pleased today to join my colleagues in introducing the Public Utility Holding Company Act of 1995. This is the first step in changing a law of which I have urged reform for many years. The purpose of this bill is to bring into the 1990's a 60-year-old, now-antiquated law: the Public Utility Holding Company Act of 1935 [PUHCA]. Our goal is to do away with burdensome and duplicative regulation, which stifles our Nation's economic well-being, and yet still provide adequate protection for electricity consumers. In this regard, this bill effectively implements the recommendations of Securities and Exchange Commission Chairman Arthur Levitt.

At the time of its enactment in 1935, PUHCA was clearly necessary. The aim of this New Deal era law was to eradicate the abuses of large, monopolistic public utility holding companies. The holding company structure permitted such companies to deceive investors and obstruct State utility regulation. Importantly, in 1935, Federal regulation of holding companies was nonexistent.

Times have clearly changed. State regulators have the authority to protect retail ratepayers from monopolistic prices, and the Federal Energy Regulatory Commission [FERC] has similar authority with respect to wholesale ratepayers. This proposed bill does away with unnecessary regulation of public utility holding companies by the Securities and Exchange Commission, but augments the authorities of State and Federal utility regulators to do their jobs better.

Times have clearly changed. State regulators have the authority to protect retail ratepayers from monopolistic prices, and the Federal Energy Regulatory Commission [FERC] has similar authority with respect to wholesale ratepayers. This proposed bill does away with unnecessary regulation of public utility holding companies by the Securities and Exchange Commission, but augments the authorities of State and Federal utility regulators to do their jobs better. Specifically, the bill gives FERC and the States augmented authority to review the books, records, and accounts of companies within holding company systems. The bill also gives FERC and State public utility commissions the ability to examine so-called affiliated transactions, that is, the authority to determine whether a public utility company may recover in rates any costs of an activity performed by an associate company, or any costs of goods or services acquired by public utilities from their associate companies.

Although I support the goals of this bill, I wish to make one point clear. I understand that, in a letter to Senator D'AMATO, the Federal Energy Regulatory Commission has raised several concerns regarding the specific provisions of any proposed bill which would reform PUHCA. I am in receipt of FERC's letter to Senator D'AMATO, and am committed to working with the Banking Committee to achieve a resolution of any outstanding issues. Although I believe the bill introduced today goes a long way toward achieving reform of PUHCA, I believe a number of issues must be resolved, particularly, the way in which FERC will carry out its new authorities under the bill as proposed with respect to holding companies which were formerly exempt from PUHCA.

ADDITIONAL COSPONSORS

S. 358

At the request of Mr. HEFLIN, the names of the Senator from North Dakota [Mr. DORGAN], the Senator from Arkansas [Mr. PRYOR], and the Senator from Mississippi [Mr. COCHRAN] were added as cosponsors of S. 358, a bill to amend the Internal Revenue Code of 1986 to provide for an excise tax exemption for certain emergency medical transportation by air ambulance.

S. 490

At the request of Mr. GRASSLEY, the name of the Senator from North Carolina [Mr. HELMS] was added as a cosponsor of S. 490, a bill to amend the Clean Air Act to exempt agriculture-related facilities from certain permitting requirements, and for other purposes.

S. 607

At the request of Mr. WARNER, the name of the Senator from Wisconsin [Mr. FEINGOLD] was added as a cosponsor of S. 607, a bill to amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 to clarify the liability of certain recycling transactions, and for other purposes.

S. 881

At the request of Mr. PRYOR, the name of the Senator from Hawaii [Mr. INOUYE] was added as a cosponsor of S. 881, a bill to amend the Internal Revenue Code of 1986 to clarify provisions relating to church pension benefit plans, to modify certain provisions relating to participants in such plans, to reduce the complexity of and to bring workable consistency to the applicable rules, to promote retirement savings and benefits, and for other purposes.

S. 1086

At the request of Mr. DOLE, the name of the Senator from Pennsylvania [Mr. SANTORUM] was added as a cosponsor of S. 1086, a bill to amend the Internal Revenue Code of 1986 to allow a family owned business exclusion from the gross estate subject to estate tax, and for other purposes.

S. 1108

At the request of Mr. SMITH, the names of the Senator from Colorado [Mr. BROWN] and the Senator from Arizona [Mr. KYL] were added as cosponsors of S. 1108, a bill to amend the Internal Revenue Code of 1986 to allow individuals to designate that up to 10 percent of their income tax liability be used to reduce the national debt, and to require spending reductions equal to the amounts so designated.

S. 1170

At the request of Mr. PRESSLER, the name of the Senator from Pennsylvania [Mr. SANTORUM] was added as a cosponsor of S. 1170, a bill to limit the applicability of the generation-skipping transfer tax.

S. 1178

At the request of Mr. CHAFEE, the name of the Senator from Tennessee [Mr. FRIST] was added as a cosponsor of S. 1178, a bill to amend title XVIII of the Social Security Act to provide for coverage of colorectal screening under part B of the medicare program.

S. 1271

At the request of Mr. CRAIG, the name of the Senator from Missouri