

AMENDMENT TO H.R. 4278

OFFERED BY MR. BISHOP OF NEW YORK

Page 1, before line 6, insert the following:

1 **TITLE I—PRESERVING RURAL**
2 **RESOURCES**

Page 1, line 6, strike “SEC. 2.” and insert “SEC. 1001.”.

Page 2, after line 11, insert the following:

3 **TITLE II—WATER QUALITY PRO-**
4 **TECTION AND JOB CREATION**

5 **SEC. 2001. SHORT TITLE.**

6 This title may be cited as the “Water Quality Protec-
7 tion and Job Creation Act of 2012”.

8 **SEC. 2002. AMENDMENT OF FEDERAL WATER POLLUTION**
9 **CONTROL ACT.**

10 Except as otherwise expressly provided, whenever in
11 this title an amendment or repeal is expressed in terms
12 of an amendment to, or repeal of, a section or other provi-
13 sion, the reference shall be considered to be made to a
14 section or other provision of the Federal Water Pollution
15 Control Act (33 U.S.C. 1251 et seq.).

1 **Subtitle A—Water Quality**
2 **Financing**

3 **CHAPTER 1—TECHNICAL AND**
4 **MANAGEMENT ASSISTANCE**

5 **SEC. 2101. TECHNICAL ASSISTANCE.**

6 (a) TECHNICAL ASSISTANCE FOR RURAL AND SMALL
7 TREATMENT WORKS.—Section 104(b) (33 U.S.C.
8 1254(b)) is amended—

9 (1) by striking “and” at the end of paragraph
10 (6);

11 (2) by striking the period at the end of para-
12 graph (7) and inserting “; and”; and

13 (3) by adding at the end the following:

14 “(8) make grants to nonprofit organizations—

15 “(A) to provide technical assistance to
16 rural and small municipalities and tribal gov-
17 ernments for the purpose of assisting, in con-
18 sultation with the State in which the assistance
19 is provided, such municipalities and tribal gov-
20 ernments in the planning, developing, and ac-
21 quisition of financing for eligible projects de-
22 scribed in section 603(c);

23 “(B) to provide technical assistance and
24 training for rural, small, and tribal publicly
25 owned treatment works and decentralized

1 wastewater treatment systems to enable such
2 treatment works and systems to protect water
3 quality and achieve and maintain compliance
4 with the requirements of this Act; and

5 “(C) to disseminate information to rural,
6 small, and tribal municipalities and municipali-
7 ties that meet the affordability criteria estab-
8 lished under section 603(i)(2) by the State in
9 which the municipality is located with respect to
10 planning, design, construction, and operation of
11 publicly owned treatment works and decentral-
12 ized wastewater treatment systems.”.

13 (b) AUTHORIZATION OF APPROPRIATIONS.—Section
14 104(u) (33 U.S.C. 1254(u)) is amended—

15 (1) by striking “and (6)” and inserting “(6)”;
16 and

17 (2) by inserting before the period at the end the
18 following: “; and (7) not to exceed \$100,000,000 for
19 each of fiscal years 2012 through 2016 for carrying
20 out subsections (b)(3), (b)(8), and (g), except that
21 not less than 20 percent of the amounts appro-
22 priated pursuant to this paragraph in a fiscal year
23 shall be used for carrying out subsection (b)(8)”.

24 (c) SMALL FLOWS CLEARINGHOUSE.—Section
25 104(q)(4) (33 U.S.C. 1254(q)(4)) is amended—

- 1 (1) in the first sentence by striking
2 “\$1,000,000” and inserting “\$3,000,000”; and
3 (2) in the second sentence by striking “1986”
4 and inserting “2016”.

5 **SEC. 2102. STATE MANAGEMENT ASSISTANCE.**

6 (a) **AUTHORIZATION OF APPROPRIATIONS.**—Section
7 106(a) (33 U.S.C. 1256(a)) is amended—

8 (1) by striking “and” at the end of paragraph
9 (1);

10 (2) by striking the semicolon at the end of
11 paragraph (2) and inserting “; and”; and

12 (3) by inserting after paragraph (2) the fol-
13 lowing:

14 “(3) such sums as may be necessary for each
15 of fiscal years 1991 through 2011, and
16 \$300,000,000 for each of fiscal years 2012 through
17 2016;”.

18 (b) **TECHNICAL AMENDMENT.**—Section 106(e) (33
19 U.S.C. 1256(e)) is amended by striking “Beginning in fis-
20 cal year 1974 the” and inserting “The”.

21 **SEC. 2103. WATERSHED PILOT PROJECTS.**

22 (a) **PILOT PROJECTS.**—Section 122 (33 U.S.C.
23 1274) is amended—

24 (1) in the section heading by striking “**WET**
25 **WEATHER**”; and

- 1 (2) in subsection (a)—
- 2 (A) in the matter preceding paragraph
- 3 (1)—
- 4 (i) by striking “for treatment works”
- 5 and inserting “to a municipality or munic-
- 6 ipal entity”; and
- 7 (ii) by striking “wet weather dis-
- 8 charge”;
- 9 (B) in paragraph (2) by striking “in reduc-
- 10 ing such pollutants” and all that follows before
- 11 the period at the end and inserting “to manage,
- 12 reduce, treat, or reuse municipal stormwater,
- 13 including low-impact development technologies
- 14 and other techniques that utilize infiltration,
- 15 evapotranspiration, and reuse of storm water on
- 16 site”; and
- 17 (C) by adding at the end the following:
- 18 “(3) WATERSHED PARTNERSHIPS.—Efforts of
- 19 municipalities and property owners to demonstrate
- 20 cooperative ways to address nonpoint sources of pol-
- 21 lution to reduce adverse impacts on water quality.
- 22 “(4) INTEGRATED WATER RESOURCE PLAN.—
- 23 The development of an integrated water resource
- 24 plan for the coordinated management and protection
- 25 of surface water, ground water, and stormwater re-

1 sources on a watershed or subwatershed basis to
2 meet the objectives, goals, and policies of this Act.

3 “(5) MUNICIPALITY-WIDE STORM WATER MAN-
4 AGEMENT PLANNING.—The development of a mu-
5 nicipality-wide plan that identifies the most effective
6 placement of storm water technologies and manage-
7 ment approaches, including green infrastructure, to
8 reduce water quality impairments from storm water
9 on a municipality-wide basis.”.

10 (b) AUTHORIZATION OF APPROPRIATIONS.—The first
11 sentence of section 122(c)(1) is amended—

12 (1) by striking “and”; and

13 (2) by striking the period and inserting “, such
14 sums as may be necessary for each of fiscal years
15 2005 through 2011, and \$120,000,000 for each of
16 fiscal years 2012 through 2016”.

17 (c) REPORT TO CONGRESS.—Section 122(d) is
18 amended by striking “5 years after the date of enactment
19 of this section,” and inserting “October 1, 2013,”.

20 **CHAPTER 2—CONSTRUCTION OF**
21 **TREATMENT WORKS**

22 **SEC. 2111. SEWAGE COLLECTION SYSTEMS.**

23 Section 211 (33 U.S.C. 1291) is amended—

1 (1) by striking the section heading and all that
2 follows through “(a) No” and inserting the fol-
3 lowing:

4 **“SEC. 211. SEWAGE COLLECTION SYSTEMS.**

5 “(a) IN GENERAL.—No”;

6 (2) in subsection (b) by inserting “POPULATION
7 DENSITY.—” after “(b)”;

8 (3) by striking subsection (c) and inserting the
9 following:

10 “(c) EXCEPTIONS.—

11 “(1) REPLACEMENT AND MAJOR REHABILITA-
12 TION.—Notwithstanding the requirement of sub-
13 section (a)(1) concerning the existence of a collection
14 system as a condition of eligibility, a project for re-
15 placement or major rehabilitation of a collection sys-
16 tem existing on January 1, 2007, shall be eligible for
17 a grant under this title if the project otherwise
18 meets the requirements of subsection (a)(1) and
19 meets the requirement of paragraph (3).

20 “(2) NEW SYSTEMS.—Notwithstanding the re-
21 quirement of subsection (a)(2) concerning the exist-
22 ence of a community as a condition of eligibility, a
23 project for a new collection system to serve a com-
24 munity existing on January 1, 2007, shall be eligible
25 for a grant under this title if the project otherwise

1 meets the requirements of subsection (a)(2) and
2 meets the requirement of paragraph (3).

3 “(3) REQUIREMENT.—A project meets the re-
4 quirement of this paragraph if the purpose of the
5 project is to accomplish the objectives, goals, and
6 policies of this Act by addressing an adverse envi-
7 ronmental condition existing on the date of enact-
8 ment of this paragraph.”.

9 **SEC. 2112. TREATMENT WORKS DEFINED.**

10 Section 212(2)(A) (33 U.S.C. 1292(2)(A)) is amend-
11 ed—

12 (1) by striking “any works, including site”;

13 (2) by striking “is used for ultimate” and in-
14 serting “will be used for ultimate”; and

15 (3) by inserting before the period at the end the
16 following: “and acquisition of other lands, and inter-
17 ests in lands, which are necessary for construction”.

18 **CHAPTER 3—STATE WATER POLLUTION**
19 **CONTROL REVOLVING FUNDS**

20 **SEC. 2121. GENERAL AUTHORITY FOR CAPITALIZATION**
21 **GRANTS.**

22 Section 601(a) (33 U.S.C. 1381(a)) is amended by
23 striking “for providing assistance” and all that follows
24 through the period at the end and inserting the following:
25 “to accomplish the objectives, goals, and policies of this

1 Act by providing assistance for projects and activities
2 identified in section 603(c).”.

3 **SEC. 2122. CAPITALIZATION GRANT AGREEMENTS.**

4 (a) **REPORTING INFRASTRUCTURE ASSETS.**—Section
5 602(b)(9) (33 U.S.C. 1382(b)(9)) is amended by striking
6 “standards” and inserting “standards, including stand-
7 ards relating to the reporting of infrastructure assets”.

8 (b) **ADDITIONAL REQUIREMENTS.**—Section 602(b)
9 (33 U.S.C. 1382(b)) is amended—

10 (1) in paragraph (6)—

11 (A) by striking “before fiscal year 1995”;

12 (B) by striking “funds directly made avail-
13 able by capitalization grants under this title
14 and section 205(m) of this Act” and inserting
15 “assistance made available by a State water
16 pollution control revolving fund as authorized
17 under this title, or with assistance made avail-
18 able under section 205(m), or both,”; and

19 (C) by striking “201(b)” and all that fol-
20 lows through “513” and inserting “211 and
21 511(c)(1)”;

22 (2) by striking “and” at the end of paragraph
23 (9);

24 (3) by striking the period at the end of para-
25 graph (10) and inserting a semicolon; and

1 (4) by adding at the end the following:

2 “(11) the State will establish, maintain, invest,
3 and credit the fund with repayments, such that the
4 fund balance will be available in perpetuity for pro-
5 viding financial assistance in accordance with this
6 title;

7 “(12) any fees charged by the State to recipi-
8 ents of assistance that are considered program in-
9 come will be used for the purpose of financing the
10 cost of administering the fund or financing projects
11 or activities eligible for assistance from the fund;

12 “(13) beginning in fiscal year 2013, the State
13 will include as a condition of providing assistance to
14 a municipality or intermunicipal, interstate, or State
15 agency that the recipient of such assistance certify,
16 in a manner determined by the Governor of the
17 State, that the recipient—

18 “(A) has studied and evaluated the cost
19 and effectiveness of the processes, materials,
20 techniques, and technologies for carrying out
21 the proposed project or activity for which assist-
22 ance is sought under this title, and has selected,
23 to the extent practicable, a project or activity
24 that maximizes the potential for efficient water
25 use, reuse, and conservation, and energy con-

1 servation, taking into account the cost of con-
2 structing the project or activity, the cost of op-
3 erating and maintaining the project or activity
4 over its life, and the cost of replacing the
5 project or activity; and

6 “(B) has considered, to the maximum ex-
7 tent practicable and as determined appropriate
8 by the recipient, the costs and effectiveness of
9 other design, management, and financing ap-
10 proaches for carrying out a project or activity
11 for which assistance is sought under this title,
12 taking into account the cost of constructing the
13 project or activity, the cost of operating and
14 maintaining the project or activity over its life,
15 and the cost of replacing the project or activity;

16 “(14) the State will use at least 15 percent of
17 the amount of each capitalization grant received by
18 the State under this title after September 30, 2010,
19 to provide assistance to municipalities of fewer than
20 10,000 individuals that meet the affordability cri-
21 teria established by the State under section
22 603(i)(2) for projects or activities included on the
23 State’s priority list established under section 603(g),
24 to the extent that there are sufficient applications
25 for such assistance;

1 “(15) a contract to be carried out using funds
2 directly made available by a capitalization grant
3 under this title for program management, construc-
4 tion management, feasibility studies, preliminary en-
5 gineering, design, engineering, surveying, mapping,
6 or architectural related services shall be negotiated
7 in the same manner as a contract for architectural
8 and engineering services is negotiated under chapter
9 11 of title 40, United States Code, or an equivalent
10 State qualifications-based requirement (as deter-
11 mined by the Governor of the State); and

12 “(16) the requirements of section 513 will apply
13 to the construction of treatment works carried out in
14 whole or in part with assistance made available by
15 a State water pollution control revolving fund as au-
16 thorized under this title, or with assistance made
17 available under section 205(m), or both, in the same
18 manner as treatment works for which grants are
19 made under this Act.”.

20 **SEC. 2123. WATER POLLUTION CONTROL REVOLVING LOAN**
21 **FUNDS.**

22 (a) **PROJECTS AND ACTIVITIES ELIGIBLE FOR AS-**
23 **SISTANCE.**—Section 603(c) (33 U.S.C. 1383(c)) is amend-
24 ed to read as follows:

1 “(c) PROJECTS AND ACTIVITIES ELIGIBLE FOR AS-
2 SISTANCE.—The amounts of funds available to each State
3 water pollution control revolving fund shall be used only
4 for providing financial assistance—

5 “(1) to any municipality or intermunicipal,
6 interstate, or State agency for construction of pub-
7 licly owned treatment works;

8 “(2) for the implementation of a management
9 program established under section 319;

10 “(3) for development and implementation of a
11 conservation and management plan under section
12 320;

13 “(4) for repair or replacement of decentralized
14 wastewater treatment systems that treat domestic
15 sewage;

16 “(5) for measures to manage, reduce, treat, or
17 reuse municipal stormwater;

18 “(6) to any municipality or intermunicipal,
19 interstate, or State agency for measures to reduce
20 the demand for publicly owned treatment works ca-
21 pacity through water conservation, efficiency, or
22 reuse;

23 “(7) for the development and implementation of
24 watershed projects meeting the criteria set forth in
25 section 122; and

1 “(8) to any municipality or intermunicipal,
2 interstate, or State agency for measures to reduce
3 the energy consumption needs for publicly owned
4 treatment works, including the implementation of
5 energy-efficient or renewable-energy generation tech-
6 nologies.”.

7 (b) EXTENDED REPAYMENT PERIOD.—Section
8 603(d)(1) (33 U.S.C. 1383(d)(1)) is amended—

9 (1) in subparagraph (A) by striking “20 years”
10 and inserting “the lesser of 30 years or the design
11 life of the project to be financed with the proceeds
12 of the loan”; and

13 (2) in subparagraph (B) by striking “not later
14 than 20 years after project completion” and insert-
15 ing “upon the expiration of the term of the loan”.

16 (c) FISCAL SUSTAINABILITY PLAN.—Section
17 603(d)(1) (33 U.S.C. 1383(d)(1)) is further amended—

18 (1) by striking “and” at the end of subpara-
19 graph (C);

20 (2) by inserting “and” at the end of subpara-
21 graph (D); and

22 (3) by adding at the end the following:

23 “(E) for any portion of a treatment works
24 proposed for repair, replacement, or expansion,
25 and eligible for assistance under section

1 603(c)(1), the recipient of a loan will develop
2 and implement a fiscal sustainability plan that
3 includes—

4 “(i) an inventory of critical assets
5 that are a part of that portion of the treat-
6 ment works;

7 “(ii) an evaluation of the condition
8 and performance of inventoried assets or
9 asset groupings;

10 “(iii) a certification that the recipient
11 has evaluated and will be implementing
12 water and energy conservation efforts as
13 part of the plan; and

14 “(iv) a plan for maintaining, repair-
15 ing, and, as necessary, replacing that por-
16 tion of the treatment works and a plan for
17 funding such activities;”.

18 (d) ADMINISTRATIVE EXPENSES.—Section 603(d)(7)
19 (33 U.S.C. 1383(d)(7)) is amended by inserting before the
20 period at the end the following: “, \$400,000 per year, or
21 $\frac{1}{5}$ percent per year of the current valuation of the fund,
22 whichever amount is greatest, plus the amount of any fees
23 collected by the State for such purpose regardless of the
24 source”.

1 (e) TECHNICAL AND PLANNING ASSISTANCE FOR
2 SMALL SYSTEMS.—Section 603(d) (33 U.S.C. 1383(d)) is
3 amended—

4 (1) by striking “and” at the end of paragraph
5 (6);

6 (2) by striking the period at the end of para-
7 graph (7) and inserting a semicolon; and

8 (3) by adding at the end the following:

9 “(8) to provide grants to owners and operators
10 of treatment works that serve a population of
11 10,000 or fewer for obtaining technical and planning
12 assistance and assistance in financial management,
13 user fee analysis, budgeting, capital improvement
14 planning, facility operation and maintenance, equip-
15 ment replacement, repair schedules, and other activi-
16 ties to improve wastewater treatment plant manage-
17 ment and operations, except that the total amount
18 provided by the State in grants under this para-
19 graph for a fiscal year may not exceed one percent
20 of the total amount of assistance provided by the
21 State from the fund in the preceding fiscal year, or
22 2 percent of the total amount received by the State
23 in capitalization grants under this title in the pre-
24 ceding fiscal year, whichever amount is greatest; and

1 “(9) to provide grants to owners and operators
2 of treatment works for conducting an assessment of
3 the energy and water consumption of the treatment
4 works, and evaluating potential opportunities for en-
5 ergy and water conservation through facility oper-
6 ation and maintenance, equipment replacement, and
7 projects or activities that promote the efficient use
8 of energy and water by the treatment works, except
9 that the total amount provided by the State in
10 grants under this paragraph for a fiscal year may
11 not exceed one percent of the total amount of assist-
12 ance provided by the State from the fund in the pre-
13 ceeding fiscal year, or 2 percent of the total amount
14 received by the State in capitalization grants under
15 this title in the preceding fiscal year, whichever
16 amount is greatest.”.

17 (f) ADDITIONAL SUBSIDIZATION.—Section 603 (33
18 U.S.C. 1383) is amended by adding at the end the fol-
19 lowing:

20 “(i) ADDITIONAL SUBSIDIZATION.—

21 “(1) IN GENERAL.—In any case in which a
22 State provides assistance to a municipality or inter-
23 municipal, interstate, or State agency under sub-
24 section (d), the State may provide additional sub-

1 sidization, including forgiveness of principal and
2 negative interest loans—

3 “(A) to benefit a municipality that—

4 “(i) meets the State’s affordability
5 criteria established under paragraph (2);

6 or

7 “(ii) does not meet the State’s afford-
8 ability criteria if the recipient—

9 “(I) seeks additional subsidiza-
10 tion to benefit individual ratepayers in
11 the residential user rate class;

12 “(II) demonstrates to the State
13 that such ratepayers will experience a
14 significant hardship from the increase
15 in rates necessary to finance the
16 project or activity for which assistance
17 is sought; and

18 “(III) ensures, as part of an as-
19 sistance agreement between the State
20 and the recipient, that the additional
21 subsidization provided under this
22 paragraph is directed through a user
23 charge rate system (or other appro-
24 priate method) to such ratepayers; or

1 “(B) to implement a process, material,
2 technique, or technology to address water-effi-
3 ciency goals, address energy-efficiency goals,
4 mitigate stormwater runoff, or encourage envi-
5 ronmentally sensitive project planning, design,
6 and construction.

7 “(2) AFFORDABILITY CRITERIA.—

8 “(A) ESTABLISHMENT.—On or before Sep-
9 tember 30, 2012, and after providing notice
10 and an opportunity for public comment, a State
11 shall establish affordability criteria to assist in
12 identifying municipalities that would experience
13 a significant hardship raising the revenue nec-
14 essary to finance a project or activity eligible
15 for assistance under section 603(c)(1) if addi-
16 tional subsidization is not provided. Such cri-
17 teria shall be based on income data, population
18 trends, and other data determined relevant by
19 the State, including whether the project or ac-
20 tivity is to be carried out in an economically
21 distressed area, as described in section 301 of
22 the Public Works and Economic Development
23 Act of 1965 (42 U.S.C. 3161).

24 “(B) EXISTING CRITERIA.—If a State has
25 previously established, after providing notice

1 and an opportunity for public comment, afford-
2 ability criteria that meet the requirements of
3 subparagraph (A), the State may use the cri-
4 teria for the purposes of this subsection. For
5 purposes of this Act, any such criteria shall be
6 treated as affordability criteria established
7 under this paragraph.

8 “(C) INFORMATION TO ASSIST STATES.—
9 The Administrator may publish information to
10 assist States in establishing affordability cri-
11 teria under subparagraph (A).

12 “(3) PRIORITY.—A State may give priority to a
13 recipient for a project or activity eligible for funding
14 under section 603(e)(1) if the recipient meets the
15 State’s affordability criteria.

16 “(4) SET-ASIDE.—

17 “(A) IN GENERAL.—In any fiscal year in
18 which the Administrator has available for obli-
19 gation more than \$1,000,000,000 for the pur-
20 poses of this title, a State shall provide addi-
21 tional subsidization under this subsection in the
22 amount specified in subparagraph (B) to eligi-
23 ble entities described in paragraph (1) for
24 projects and activities identified in the State’s
25 intended use plan prepared under section

1 606(c) to the extent that there are sufficient
2 applications for such assistance.

3 “(B) AMOUNT.—In a fiscal year described
4 in subparagraph (A), a State shall set aside for
5 purposes of subparagraph (A) an amount not
6 less than 25 percent of the difference be-
7 tween—

8 “(i) the total amount that would have
9 been allotted to the State under section
10 604 for such fiscal year if the amount
11 available to the Administrator for obliga-
12 tion under this title for such fiscal year
13 had been equal to \$1,000,000,000; and

14 “(ii) the total amount allotted to the
15 State under section 604 for such fiscal
16 year.

17 “(5) LIMITATION.—The total amount of addi-
18 tional subsidization provided under this subsection
19 by a State may not exceed 30 percent of the total
20 amount of capitalization grants received by the State
21 under this title in fiscal years beginning after Sep-
22 tember 30, 2011.”.

23 **SEC. 2124. ALLOTMENT OF FUNDS.**

24 (a) IN GENERAL.—Section 604(a) (33 U.S.C.
25 1384(a)) is amended to read as follows:

1 “(a) ALLOTMENTS.—

2 “(1) FISCAL YEARS 2012 AND 2013.—Sums ap-
3 propriated to carry out this title for each of fiscal
4 years 2012 and 2013 shall be allotted by the Admin-
5 istrator in accordance with the formula used to allot
6 sums appropriated to carry out this title for fiscal
7 year 2011.

8 “(2) FISCAL YEAR 2014 AND THEREAFTER.—
9 Sums appropriated to carry out this title for fiscal
10 year 2014 and each fiscal year thereafter shall be al-
11 lotted by the Administrator as follows:

12 “(A) Amounts that do not exceed
13 \$1,350,000,000 shall be allotted in accordance
14 with the formula described in paragraph (1).

15 “(B) Amounts that exceed \$1,350,000,000
16 shall be allotted in accordance with the formula
17 developed by the Administrator under sub-
18 section (d).”.

19 (b) PLANNING ASSISTANCE.—Section 604(b) (33
20 U.S.C. 1384(b)) is amended by striking “1 percent” and
21 inserting “2 percent”.

22 (c) FORMULA.—Section 604 (33 U.S.C. 1384) is
23 amended by adding at the end the following:

24 “(d) FORMULA BASED ON WATER QUALITY
25 NEEDS.—Not later than September 30, 2013, and after

1 providing notice and an opportunity for public comment,
2 the Administrator shall publish an allotment formula
3 based on water quality needs in accordance with the most
4 recent survey of needs developed by the Administrator
5 under section 516(b) and any other information the Ad-
6 ministrator considers appropriate.”.

7 **SEC. 2125. INTENDED USE PLAN.**

8 (a) INTEGRATED PRIORITY LIST.—Section 603(g)
9 (33 U.S.C. 1383(g)) is amended to read as follows:

10 “(g) PRIORITY LIST.—

11 “(1) IN GENERAL.—For fiscal year 2013 and
12 each fiscal year thereafter, a State shall establish or
13 update a list of projects and activities for which as-
14 sistance is sought from the State’s water pollution
15 control revolving fund. Such projects and activities
16 shall be listed in priority order based on the method-
17 ology established under paragraph (2). The State
18 may provide financial assistance from the State’s
19 water pollution control revolving fund only with re-
20 spect to a project or activity included on such list.
21 In the case of projects and activities eligible for as-
22 sistance under section 603(c)(2), the State may in-
23 clude a category or subcategory of nonpoint sources
24 of pollution on such list in lieu of a specific project
25 or activity.

1 “(2) METHODOLOGY.—

2 “(A) IN GENERAL.—Not later than 1 year
3 after the date of enactment of this paragraph,
4 and after providing notice and opportunity for
5 public comment, each State (acting through the
6 State’s water quality management agency and
7 other appropriate agencies of the State) shall
8 establish a methodology for developing a pri-
9 ority list under paragraph (1).

10 “(B) PRIORITY FOR PROJECTS AND AC-
11 TIVITIES THAT ACHIEVE GREATEST WATER
12 QUALITY IMPROVEMENT.—In developing the
13 methodology, the State shall seek to achieve the
14 greatest degree of water quality improvement,
15 taking into consideration the requirements of
16 section 602(b)(5) and section 603(i)(3), wheth-
17 er such water quality improvements would be
18 realized without assistance under this title, and
19 whether the proposed projects and activities
20 would address water quality impairments asso-
21 ciated with existing treatment works.

22 “(C) CONSIDERATIONS IN SELECTING
23 PROJECTS AND ACTIVITIES.—In determining
24 which projects and activities will achieve the

1 greatest degree of water quality improvement,
2 the State shall consider—

3 “(i) information developed by the
4 State under sections 303(d) and 305(b);

5 “(ii) the State’s continuing planning
6 process developed under section 303(e);

7 “(iii) the State’s management pro-
8 gram developed under section 319; and

9 “(iv) conservation and management
10 plans developed under section 320.

11 “(D) NONPOINT SOURCES.—For categories
12 or subcategories of nonpoint sources of pollu-
13 tion that a State may include on its priority list
14 under paragraph (1), the State shall consider
15 the cumulative water quality improvements as-
16 sociated with projects or activities in such cat-
17 egories or subcategories.

18 “(E) EXISTING METHODOLOGIES.—If a
19 State has previously developed, after providing
20 notice and an opportunity for public comment,
21 a methodology that meets the requirements of
22 this paragraph, the State may use the method-
23 ology for the purposes of this subsection.”.

24 (b) INTENDED USE PLAN.—Section 606(c) (33
25 U.S.C. 1386(c)) is amended—

1 (1) in the matter preceding paragraph (1) by
2 striking “each State shall annually prepare” and in-
3 serting “each State (acting through the State’s
4 water quality management agency and other appro-
5 priate agencies of the State) shall annually prepare
6 and publish”;

7 (2) by striking paragraph (1) and inserting the
8 following:

9 “(1) the State’s priority list developed under
10 section 603(g);”;

11 (3) in paragraph (4)—

12 (A) by striking “and (6)” and inserting
13 “(6), (15), and (17)”;

14 (B) by striking “and” at the end;

15 (4) by striking the period at the end of para-
16 graph (5) and inserting “; and”; and

17 (5) by adding at the end the following:

18 “(6) if the State does not fund projects and ac-
19 tivities in the order of the priority established under
20 section 603(g), an explanation of why such a change
21 in order is appropriate.”.

22 (c) TRANSITIONAL PROVISION.—Before completion
23 of a priority list based on a methodology established under
24 section 603(g) of the Federal Water Pollution Control Act
25 (as amended by this section), a State shall continue to

1 comply with the requirements of sections 603(g) and
2 606(e) of such Act, as in effect on the day before the date
3 of enactment of this title.

4 **SEC. 2126. ANNUAL REPORTS.**

5 Section 606(d) (33 U.S.C. 1386(d)) is amended—

6 (1) by striking “(d) ANNUAL REPORT.—Begin-
7 ning” and inserting the following:

8 “(d) ANNUAL REPORTS.—

9 (1) STATE REPORT.—Beginning”;

10 (2) in paragraph (1) (as so designated) by
11 striking “loan amounts,” and inserting “loan
12 amounts, the eligible purposes under section 603(e)
13 for which the assistance has been provided,”; and

14 (3) by adding at the end the following:

15 “(2) FEDERAL REPORT.—The Administrator
16 shall annually prepare, and make publicly available,
17 a report on the performance of the projects and ac-
18 tivities carried out in whole or in part with assist-
19 ance made available by a State water pollution con-
20 trol revolving fund as authorized under this title
21 during the previous fiscal year, including—

22 “(A) the annual and cumulative financial
23 assistance provided to States under this title;

24 “(B) the categories and types of such
25 projects and activities;

1 “(C) an estimate of the number of jobs
2 created through carrying out such projects and
3 activities;

4 “(D) an assessment of the progress made
5 toward meeting the goals and purposes of this
6 Act through such projects and activities; and

7 “(E) any additional information that the
8 Administrator considers appropriate.”.

9 **SEC. 2127. TECHNICAL ASSISTANCE; REQUIREMENTS FOR**
10 **USE OF AMERICAN MATERIALS.**

11 Title VI (33 U.S.C. 1381 et seq.) is amended—

12 (1) by redesignating section 607 as section 610;

13 and

14 (2) by inserting after section 606 the following:

15 **“SEC. 607. TECHNICAL ASSISTANCE.**

16 “(a) **SIMPLIFIED PROCEDURES.**—Not later than 1
17 year after the date of enactment of this section, the Ad-
18 ministrator shall assist the States in establishing sim-
19 plified procedures for treatment works to obtain assistance
20 under this title.

21 “(b) **PUBLICATION OF MANUAL.**—Not later than 2
22 years after the date of the enactment of this section, and
23 after providing notice and opportunity for public comment,
24 the Administrator shall publish a manual to assist treat-
25 ment works in obtaining assistance under this title and

1 publish in the Federal Register notice of the availability
2 of the manual.

3 “(c) COMPLIANCE CRITERIA.—At the request of any
4 State, the Administrator, after providing notice and an op-
5 portunity for public comment, shall assist in the develop-
6 ment of criteria for a State to determine compliance with
7 the conditions of funding assistance established under sec-
8 tions 602(b)(13) and 603(d)(1)(E).

9 **“SEC. 608. BUY AMERICA.**

10 “(a) IN GENERAL.—Notwithstanding any other pro-
11 vision of law, funds made available from a State water
12 pollution control revolving fund established under this title
13 may not be used for a project for the construction of a
14 publicly owned treatment works unless the steel, iron, and
15 manufactured goods used for the project are produced in
16 the United States.

17 “(b) EXCEPTIONS.—Subsection (a) shall not apply to
18 a project for the construction of a treatment works if the
19 Administrator (in consultation with the Governor of the
20 State in which the treatment works will be constructed)
21 makes a finding that—

22 “(1) the steel, iron, or manufactured goods re-
23 quired for the project are a de minimis component
24 of the project, as determined in accordance with reg-
25 ulations to be issued by the Administrator;

1 “(2) the steel, iron, or manufactured goods re-
2 quired for the project are not produced in the
3 United States—

4 “(A) in sufficient and reasonably available
5 quantities; or

6 “(B) to a satisfactory quality; or

7 “(3) the use of steel, iron, and manufactured
8 goods produced in the United States for the project
9 will increase the total cost of the project by more
10 than 25 percent.

11 “(c) WAIVER REQUIREMENTS.—

12 “(1) PUBLIC NOTIFICATION AND OPPORTUNITY
13 FOR COMMENT.—

14 “(A) IN GENERAL.—At least 30 days be-
15 fore making a finding under subsection (b), the
16 Administrator shall provide notice of and an op-
17 portunity for public comment on the finding.

18 “(B) NOTICE REQUIREMENTS.—Any notice
19 provided under this subparagraph shall—

20 “(i) include a justification for the pro-
21 posed finding; and

22 “(ii) be provided by electronic means,
23 including on the Internet.

1 “(2) DETAILED JUSTIFICATION IN FEDERAL
2 REGISTER.—If the Administrator makes a finding
3 under subsection (b), the Administrator shall—

4 “(A) publish in the Federal Register a de-
5 tailed justification for the finding; and

6 “(B) provide notice of and an opportunity
7 for public comment on the detailed justification
8 at least 30 days before the finding takes effect.

9 “(3) ANNUAL REPORT.—Not later than Feb-
10 ruary 1 of each year beginning after the date of en-
11 actment of this section, the Administrator shall sub-
12 mit to the Committee on Transportation and Infra-
13 structure of the House of Representatives and the
14 Committee on Environment and Public Works of the
15 Senate a report that—

16 “(A) specifies each project with respect to
17 which the Administrator made a finding under
18 subsection (b) during the preceding calendar
19 year; and

20 “(B) describes the justification for each
21 such finding.

22 “(d) STATE REQUIREMENTS.—The Administrator
23 may not impose a limitation or condition on assistance
24 provided under this title that restricts—

1 “(1) a State from imposing requirements that
2 are more stringent than those imposed under this
3 section with respect to limiting the use of articles,
4 materials, or supplies mined, produced, or manufac-
5 tured in foreign countries for projects carried out
6 with such assistance; or

7 “(2) any recipient of assistance from a State
8 water pollution control revolving fund established
9 under this title from complying with such State re-
10 quirements.

11 “(e) INTENTIONAL VIOLATIONS.—Pursuant to proce-
12 dures established under subpart 9.4 of chapter 1 of title
13 48, Code of Federal Regulations, a person shall be ineli-
14 gible to receive a contract or subcontract funded with
15 amounts made available from a State water pollution con-
16 trol revolving fund established under this title if the Ad-
17 ministrators or a court determines that such person inten-
18 tionally—

19 “(1) affixed a label bearing a ‘Made in Amer-
20 ica’ inscription, or any inscription with the same
21 meaning, to any steel, iron, or manufactured goods
22 that—

23 “(A) were used in a project to which this
24 section applies; and

1 “(B) were not produced in the United
2 States; or

3 “(2) represented that any steel, iron, or manu-
4 factured goods were produced in the United States
5 that—

6 “(A) were used in projects to which this
7 section applies; and

8 “(B) were not produced in the United
9 States.

10 “(f) CONSISTENCY WITH INTERNATIONAL AGREE-
11 MENTS.—

12 “(1) IN GENERAL.—This section shall be ap-
13 plied in a manner that is consistent with United
14 States obligations under international agreements.

15 “(2) TREATMENT OF FOREIGN COUNTRIES IN
16 VIOLATION OF INTERNATIONAL AGREEMENTS.—The
17 Administrator shall prohibit the use of steel, iron,
18 and manufactured goods produced in a foreign coun-
19 try in a project funded with amounts made available
20 from a State water pollution control revolving fund
21 established under this title, including any project for
22 which the Administrator has made a finding under
23 subsection (b), if the Administrator, in consultation
24 with the United States Trade Representative, deter-
25 mines that the foreign country is in violation of the

1 terms of an agreement with the United States by
2 discriminating against steel, iron, or manufactured
3 goods that are produced in the United States and
4 covered by the agreement.”.

5 **SEC. 2128. ECONOMIC HARDSHIP WAIVER.**

6 Notwithstanding the requirements of section
7 602(b)(2) of the Federal Water Pollution Control Act (33
8 U.S.C. 1382(b)(2)), for fiscal years 2012 and 2013, the
9 Administrator of the Environmental Protection Agency
10 may waive the requirement that a State deposit an amount
11 equal to 20 percent of the State’s annual capitalization
12 grant into the State’s water pollution control revolving
13 fund established under title VI of that Act if the Adminis-
14 trator determines that the State is currently experiencing
15 a local, statewide, or regional economic hardship and that
16 providing such a deposit would adversely impact the
17 State’s ability to restore and maintain the chemical, phys-
18 ical, and biological integrity of waters located within the
19 State.

20 **SEC. 2129. AUTHORIZATION OF APPROPRIATIONS.**

21 Section 610 (as redesignated by section 2127 of this
22 title) is amended by striking paragraphs (1) through (5)
23 and inserting the following:

24 “(1) \$2,400,000,000 for fiscal year 2012;

25 “(2) \$2,700,000,000 for fiscal year 2013;

- 1 “(3) \$2,800,000,000 for fiscal year 2014;
2 “(4) \$2,900,000,000 for fiscal year 2015; and
3 “(5) \$3,000,000,000 for fiscal year 2016.”.

4 **CHAPTER 4—GENERAL PROVISIONS**

5 **SEC. 2131. DEFINITION OF TREATMENT WORKS.**

6 Section 502 (33 U.S.C. 1362) is amended by adding
7 at the end the following:

8 “(26) TREATMENT WORKS.—The term ‘treat-
9 ment works’ has the meaning given that term in sec-
10 tion 212.”.

11 **SEC. 2132. FUNDING FOR INDIAN PROGRAMS.**

12 Section 518(e) (33 U.S.C. 1377) is amended—

13 (1) by striking “The Administrator” and insert-
14 ing the following:

15 “(1) FISCAL YEARS 1987–2011.—The Adminis-
16 trator”;

17 (2) in paragraph (1) (as so designated)—

18 (A) by inserting “and ending before Octo-
19 ber 1, 2011,” after “1986,”; and

20 (B) by striking the second sentence; and

21 (3) by adding at the end the following:

22 “(2) FISCAL YEAR 2012 AND THEREAFTER.—

23 For fiscal year 2012 and each fiscal year thereafter,
24 the Administrator shall reserve, before allotments to
25 the States under section 604(a), not less than 0.5

1 percent and not more than 2.0 percent of the funds
2 made available to carry out title VI.

3 “(3) USE OF FUNDS.—Funds reserved under
4 this subsection shall be available only for grants for
5 projects and activities eligible for assistance under
6 section 603(c) to serve—

7 “(A) Indian tribes (as defined in section
8 518(h));

9 “(B) former Indian reservations in Okla-
10 homa (as determined by the Secretary of the
11 Interior); and

12 “(C) Native villages (as defined in section
13 3 of the Alaska Native Claims Settlement Act
14 (43 U.S.C. 1602)).”

15 **CHAPTER 5—TONNAGE DUTIES**

16 **SEC. 2141. TONNAGE DUTIES.**

17 (a) IN GENERAL.—Section 60301 of title 46, United
18 States Code, is amended by striking subsections (a) and
19 (b) and inserting the following:

20 “(a) LOWER RATE.—

21 “(1) IMPOSITION OF DUTY.—A duty is imposed
22 at the rate described in paragraph (2) at each entry
23 in a port of the United States of—

24 “(A) a vessel entering from a foreign port
25 or place in North America, Central America,

1 the West Indies Islands, the Bahama Islands,
2 the Bermuda Islands, or the coast of South
3 America bordering the Caribbean Sea; or

4 “(B) a vessel returning to the same port or
5 place in the United States from which it de-
6 parted, and not entering the United States
7 from another port or place, except—

8 “(i) a vessel of the United States;

9 “(ii) a recreational vessel (as defined
10 in section 2101 of this title); or

11 “(iii) a barge.

12 “(2) RATE.—The rate referred to in paragraph
13 (1) shall be—

14 “(A) 4.5 cents per ton (but not more than
15 a total of 22.5 cents per ton per year) for fiscal
16 years 2006 through 2011;

17 “(B) 9.0 cents per ton (but not more than
18 a total of 45 cents per ton per year) for fiscal
19 years 2012 through 2021; and

20 “(C) 2 cents per ton (but not more than
21 a total of 10 cents per ton per year) for each
22 fiscal year thereafter.

23 “(b) HIGHER RATE.—

24 “(1) IMPOSITION OF DUTY.—A duty is imposed
25 at the rate described in paragraph (2) on a vessel

1 at each entry in a port of the United States from
2 a foreign port or place not named in subsection
3 (a)(1).

4 “(2) RATE.—The rate referred to in paragraph
5 (1) shall be—

6 “(A) 13.5 cents per ton (but not more
7 than a total of 67.5 cents per ton per year) for
8 fiscal years 2006 through 2011;

9 “(B) 27 cents per ton (but not more than
10 a total of \$1.35 per ton per year) for fiscal
11 years 2012 through 2021, and

12 “(C) 6 cents per ton (but not more than
13 a total of 30 cents per ton per year) for each
14 fiscal year thereafter.”

15 (b) CONFORMING AMENDMENTS.—Such title is fur-
16 ther amended—

17 (1) by striking the heading for subtitle VI and
18 inserting the following:

19 **“Subtitle VI—Clearance and**
20 **Tonnage Duties”;**

21 (2) in the heading for chapter 603, by striking
22 **“TAXES”** and inserting **“DUTIES”**;

23 (3) in the headings of sections in chapter 603,
24 by striking **“taxes”** each place it appears and in-
25 sserting **“duties”**;

1 (4) in the heading for subsection (a) of section
2 60303, by striking “TAX” and inserting “DUTY”;

3 (5) in the text of sections in chapter 603, by
4 striking “taxes” each place it appears and inserting
5 “duties”; and

6 (6) in the text of sections in chapter 603, by
7 striking “tax” each place it appears and inserting
8 “duty”.

9 (c) CLERICAL AMENDMENTS.—Such title is further
10 amended—

11 (1) in the title analysis by striking the item re-
12 lating to subtitle VI and inserting the following:

“VI. CLEARANCE AND TONNAGE DUTIES60101”;

13 (2) in the analysis for subtitle VI by striking
14 the item relating to chapter 603 and inserting the
15 following:

“603. Tonnage Duties and Light Money 60301”;

16 and

17 (3) in the analysis for chapter 603—

18 (A) by striking the items relating to sec-
19 tions 60301 and 60302 and inserting the fol-
20 lowing:

“60301. Regular tonnage duties.

“60302. Special tonnage duties.”;

21 and

1 (B) by striking the item relating to section
2 60304 and inserting the following:

“60304. Presidential suspension of tonnage duties and light money.”.

3 **Subtitle B—Alternative Water**
4 **Source Projects**

5 **SEC. 2201. PILOT PROGRAM FOR ALTERNATIVE WATER**
6 **SOURCE PROJECTS.**

7 (a) SELECTION OF PROJECTS.—Section 220(d)(2)
8 (33 U.S.C. 1300(d)(2)) is amended by inserting before the
9 period at the end the following: “or whether the project
10 is located in an area which is served by a public water
11 system serving 10,000 individuals or fewer”.

12 (b) AUTHORIZATION OF APPROPRIATIONS.—Section
13 220(j) (33 U.S.C. 1300(j)) is amended by striking
14 “\$75,000,000 for fiscal years 2002 through 2004” and
15 inserting “\$50,000,000 for each of fiscal years 2012
16 through 2016”.

17 **Subtitle C—Sewer Overflow**
18 **Control Grants**

19 **SEC. 2301. SEWER OVERFLOW CONTROL GRANTS.**

20 (a) ADMINISTRATIVE REQUIREMENTS.—Section
21 221(e) (33 U.S.C. 1301(e)) is amended to read as follows:

22 “(e) ADMINISTRATIVE REQUIREMENTS.—A project
23 that receives assistance under this section shall be carried
24 out subject to the same requirements as a project that
25 receives assistance from a State water pollution control

1 revolving fund under title VI, except to the extent that
2 the Governor of the State in which the project is located
3 determines that a requirement of title VI is inconsistent
4 with the purposes of this section. For the purposes of this
5 subsection, a Governor may not determine that the re-
6 quirements of title VI relating to the application of section
7 513 are inconsistent with the purposes of this section.”.

8 (b) AUTHORIZATION OF APPROPRIATIONS.—Section
9 221(f) (33 U.S.C. 1301(f)) is amended to read as follows:

10 “(f) AUTHORIZATION OF APPROPRIATIONS.—

11 “(1) IN GENERAL.—There is authorized to be
12 appropriated to carry out this section \$500,000,000
13 for each of fiscal years 2012 through 2016.

14 “(2) MINIMUM ALLOCATIONS.—To the extent
15 there are sufficient eligible project applications, the
16 Administrator shall ensure that a State uses not less
17 than 20 percent of the amount of the grants made
18 to the State under subsection (a) in a fiscal year to
19 carry out projects to control municipal combined
20 sewer overflows and sanitary sewer overflows
21 through the use of green infrastructure, water and
22 energy efficiency improvements, and other environ-
23 mentally innovative activities.”.

24 (c) ALLOCATION OF FUNDS.—Section 221(g) of such
25 Act (33 U.S.C. 1301(g)) is amended to read as follows:

1 “(g) ALLOCATION OF FUNDS.—

2 “(1) FISCAL YEAR 2012.—Subject to subsection
3 (h), the Administrator shall use the amounts appro-
4 priated to carry out this section for fiscal year 2012
5 for making grants to municipalities and municipal
6 entities under subsection (a)(2) in accordance with
7 the criteria set forth in subsection (b).

8 “(2) FISCAL YEAR 2013 AND THEREAFTER.—

9 Subject to subsection (h), the Administrator shall
10 use the amounts appropriated to carry out this sec-
11 tion for fiscal year 2013 and each fiscal year there-
12 after for making grants to States under subsection
13 (a)(1) in accordance with a formula to be established
14 by the Administrator, after providing notice and an
15 opportunity for public comment, that allocates to
16 each State a proportional share of such amounts
17 based on the total needs of the State for municipal
18 combined sewer overflow controls and sanitary sewer
19 overflow controls identified in the most recent survey
20 conducted pursuant to section 516 and any other in-
21 formation the Administrator considers appropriate.”.

22 (d) REPORTS.—The first sentence of section 221(i)
23 (33 U.S.C. 1301(i)) is amended by striking “2003” and
24 inserting “2013”.

1 **Subtitle D—Clean Water Trust**
2 **Fund**

3 **SEC. 2401. ESTABLISHMENT OF CLEAN WATER TRUST**
4 **FUND.**

5 Subchapter A of chapter 98 of the Internal Revenue
6 Code of 1986 (relating to the establishment of trust funds)
7 is amended by adding at the end the following new section:

8 **“SEC. 9512. CLEAN WATER TRUST FUND.**

9 “(a) CREATION OF TRUST FUND.—There is estab-
10 lished in the Treasury of the United States a trust fund
11 to be known as the ‘Clean Water Trust Fund’, consisting
12 of such amounts as may be appropriated or credited to
13 the Fund as provided in this section or section 9602(b).

14 “(b) TRANSFERS TO TRUST FUND.—There are here-
15 by appropriated to the Clean Water Trust Fund amounts
16 equivalent to—

17 “(1) fees, taxes, or other sources of revenue
18 specifically collected and deposited in the Fund or
19 received in the Treasury for the purposes provided
20 in this section; and

21 “(2) any penalty paid pursuant to section 309
22 of the Federal Water Pollution Control Act (33
23 U.S.C. 1319) (other than those that result of viola-
24 tions of section 311 of such Act).

1 “(c) APPROPRIATION OF ADDITIONAL SUMS.—There
2 are hereby authorized to be appropriated to the Clean
3 Water Trust Fund such additional sums as may be re-
4 quired to make the expenditures referred to in subsection
5 (d).

6 “(d) EXPENDITURES.—Amounts in the Clean Water
7 Trust Fund shall be available, as provided in appropria-
8 tions Acts, for the following purposes:

9 “(1) Capitalization grants under section 601 of
10 the Federal Water Pollution Control Act (33 U.S.C.
11 1381).

12 “(2) Grants to States and interstate agencies
13 under section 106(a) of that Act (33 U.S.C.
14 1256(a)).

15 “(3) Grants under sections 104(b) and 104(g)
16 of that Act (33 U.S.C. 1254(b) and 1254(g)).

17 “(4) To cover the cost of making direct loans
18 or guaranteeing obligations authorized under the
19 Water Pollution Control Investment Act.”.

20 **SEC. 2402. ALLOCATION OF FUNDS.**

21 Title VI (as amended by section 2127 of this title)
22 is further amended by inserting after section 608 the fol-
23 lowing:

1 **“SEC. 609. CLEAN WATER TRUST FUND.**

2 “(a) ALLOCATION OF FUNDS.—The Administrator
3 shall allocate funds made available for a fiscal year out
4 of the Clean Water Trust Fund established by section
5 9512 of the Internal Revenue Code of 1986 among eligible
6 programs and activities as follows:

7 “(1) 80 percent for capitalization grants under
8 section 604.

9 “(2) 10 percent to cover the cost of making di-
10 rect loans or guaranteeing obligations authorized
11 under the Water Pollution Control Investment Act.

12 “(3) 7.5 percent for grants to States and inter-
13 state agencies under section 106(a).

14 “(4) 2.5 percent for grants under sections
15 104(b) and 104(g).

16 “(b) AMOUNTS MADE AVAILABLE FOR CAPITALIZA-
17 TION GRANTS.—To the extent there are sufficient applica-
18 tions, not less than 30 percent of the amounts allocated
19 for capitalization grants under subsection (a)(1) shall be
20 used for one or more of the following purposes:

21 “(1) Projects or activities to address green in-
22 frastructure.

23 “(2) Water or energy efficiency improvements
24 or other environmentally innovative activities.

25 “(3) The implementation of best management
26 practices or measures identified in an approved

1 nonpoint source management program under section
2 319.”.

3 **SEC. 2403. REVENUES FOR CLEAN WATER TRUST FUND.**

4 (a) STUDY ON IDENTIFICATION OF REVENUES.—Not
5 later than 45 days after the date of enactment of this title,
6 the Director of the Congressional Budget Office, in con-
7 sultation with the Administrator of the Environmental
8 Protection Agency and the Secretary of the Treasury,
9 shall undertake a study of potential funding mechanisms
10 and revenue sources for the Clean Water Trust Fund es-
11 tablished by section 9512(d) of the Internal Revenue Code
12 of 1986 (as added by this title) that are sufficient to sup-
13 port annual funding levels of at least \$10,000,000,000 for
14 the purposes identified in section 9512(d) of that Act.

15 (b) CONDUCT OF STUDY.—In carrying out the study,
16 the Director shall—

17 (1) take into consideration whether potential
18 funding mechanisms and revenue sources—

19 (A) are broad based;

20 (B) are equitably allocated; and

21 (C) can be efficiently collected;

22 (2) review and, to the extent practicable, utilize
23 existing studies and reports on potential sources of
24 revenue for a clean water trust fund, including—

1 (A) the report of the Government Account-
2 ability Office entitled “Clean Water Infrastruc-
3 ture: A Variety of Issues Need to Be Consid-
4 ered When Designing a Clean Water Trust
5 Fund” (GAO–09–037, May 2009); and

6 (B) the report of the Environmental Pro-
7 tection Agency entitled “Alternative Funding
8 Study: Water Quality Fees and Debt Financing
9 Issues” (EPA 832–R–96–001, June 1996);

10 (3) consult with Federal, State, tribal, and local
11 agencies, representatives of business and industry,
12 representatives of entities operating publicly owned
13 treatment works, representatives of conservation and
14 environmental organizations, representatives of rate-
15 payer organizations, and other interested persons;
16 and

17 (4) provide the opportunity for public hearings.

18 (c) REPORT TO CONGRESS.—Not later than 1 year
19 after the date of enactment of this title, the Director shall
20 submit a report on the results of the study to—

21 (1) the Committee on Transportation and In-
22 frastructure, the Committee on Ways and Means,
23 and the Committee on the Budget of the House of
24 Representatives; and

1 (2) the Committee on Environment and Public
2 Works, the Committee on Finance, and the Com-
3 mittee on the Budget of the Senate.

4 **Subtitle E—Water Pollution**
5 **Control Investment**

6 **SEC. 2501. SHORT TITLE.**

7 This subtitle may be cited as the “Water Pollution
8 Control Investment Act”.

9 **SEC. 2502. DEFINITIONS.**

10 In this subtitle, the following definitions apply:

11 (1) ADMINISTRATOR.—The term “Adminis-
12 trator” means the Administrator of the Environ-
13 mental Protection Agency.

14 (2) BORROWER.—The term “borrower” means
15 a person who owes payments of interest or principal
16 on an obligation guaranteed under this subtitle.

17 (3) COST OF A DIRECT LOAN.—The term “cost
18 of a direct loan” means the “cost of a direct loan”
19 as that term is used in section 502(5) of the Federal
20 Credit Reform Act of 1990 (2 U.S.C. 661a(5)).

21 (4) COST OF A GUARANTEE.—The term “cost
22 of a guarantee” means the “cost of a loan guar-
23 antee” as that term is used in section 502(5) of the
24 Federal Credit Reform Act of 1990 (2 U.S.C.
25 661a(5)).

1 (5) DIRECT LOAN.—The term “direct loan” has
2 the meaning given that term in section 502 of the
3 Federal Credit Reform Act of 1990 (2 U.S.C. 661a).

4 (6) GUARANTEE.—

5 (A) IN GENERAL.—The term “guarantee”
6 has the meaning given the term “loan guar-
7 antee” in section 502 of the Federal Credit Re-
8 form Act of 1990 (2 U.S.C. 661a).

9 (B) INCLUSION.—The term “guarantee”
10 includes a loan guarantee commitment (as that
11 term is defined in section 502 of the Federal
12 Credit Reform Act of 1990 (2 U.S.C. 661a)).

13 (7) LARGE WATER INFRASTRUCTURE
14 PROJECT.—

15 (A) IN GENERAL.—The term “large water
16 infrastructure project” means a project for con-
17 struction of a publicly owned treatment works
18 that qualifies for assistance under section
19 603(c) of the Federal Water Pollution Control
20 Act (33 U.S.C. 1383(c)), but because of its sig-
21 nificant scope and cost is not likely to receive
22 assistance under that Act, as determined by the
23 Administrator.

24 (B) GUIDELINES.—The Administrator
25 shall issue guidelines for determining whether a

1 project qualifies as a large water infrastructure
2 project.

3 (8) OBLIGATION.—The term “obligation”
4 means a loan or other debt obligation.

5 (9) STATE INFRASTRUCTURE FINANCING AU-
6 THORITY.—The term “State infrastructure financing
7 authority” means the State entity established or des-
8 ignated by the Governor of a State to receive a cap-
9 italization grant provided by, or otherwise carry out
10 the requirements of, title VI of the Federal Water
11 Pollution Control Act (33 U.S.C. 1381 et. seq.).

12 **SEC. 2503. DIRECT LOANS.**

13 (a) IN GENERAL.—

14 (1) USE OF LOANS.—The Administrator may
15 make a direct loan to a State infrastructure financ-
16 ing authority for use in the same manner, and sub-
17 ject to the same terms and conditions (unless other-
18 wise specified in this section), as a capitalization
19 grant made under section 601 of the Federal Water
20 Pollution Control Act (33 U.S.C. 1831).

21 (2) TERMS AND CONDITIONS.—The Adminis-
22 trator may make a loan under this section on such
23 terms and conditions (including requirements for au-
24 dits) as the Administrator determines appropriate.

25 (b) LOAN REQUIREMENTS.—

1 (1) MAXIMUM AMOUNT.—The amount of a loan
2 made under this section to a State infrastructure fi-
3 nancing authority shall not exceed the applicable
4 percentage for the State establishing such authority
5 of the total amount available under this subtitle for
6 disbursement, based on the allotment for the State
7 in accordance with section 604 of the Federal Water
8 Pollution Control Act (33 U.S.C. 1384).

9 (2) TERM OF LOAN.—The final maturity date
10 of a loan made under this section shall not be later
11 than 35 years after the date on which funds are dis-
12 bursed to a State infrastructure financing authority.

13 (3) INTEREST RATE.—The Administrator may
14 make a loan under this section only if the Adminis-
15 trator determines that the interest rate on the loan
16 is appropriate, taking into account the prevailing
17 rate of interest in the private sector for similar
18 loans.

19 (4) SECURITY.—The Administrator shall re-
20 quire a State infrastructure financing authority re-
21 ceiving a loan under this section to use a rate cov-
22 enant, coverage requirement, or similar security fea-
23 ture adequate to ensure loan repayment.

24 (5) REPAYMENT.—

1 (A) SCHEDULE.—The Administrator shall
2 set a repayment schedule for each loan made
3 under this section based on the projected cash
4 flow to the State infrastructure financing au-
5 thority, including consideration of the effect on
6 such cash flow of the security features de-
7 scribed in paragraph (4).

8 (B) COMMENCEMENT.—Scheduled loan re-
9 payments of principal or interest on a loan
10 made under this section shall commence not
11 later than 5 years after the date on which the
12 loan is made.

13 (C) DEFERRAL OF PAYMENTS.—

14 (i) IN GENERAL.—If the Adminis-
15 trator determines that a State infrastruc-
16 ture financing authority lacks the re-
17 sources to make scheduled payments on a
18 loan made under this section based on cir-
19 cumstances not foreseeable at the time the
20 loan is made, the Administrator may allow
21 for the deferral of such payments.

22 (ii) INTEREST.—Any payment de-
23 ferred under clause (i) shall—

24 (I) continue to accrue interest
25 until fully repaid; and

1 (II) be amortized over the re-
2 maining term of the loan.

3 (D) PREPAYMENT.—Payments on the loan
4 may be made in advance with no penalty.

5 (c) SALE OF LOANS.—After notifying the State infra-
6 structure financing authority, the Administrator, in con-
7 sultation with the Secretary of the Treasury, may sell a
8 loan made under this section, if the Administrator deter-
9 mines that the sale can be made on favorable terms.

10 (d) CONFORMING REQUIREMENTS.—The require-
11 ments of sections 211, 511(c)(1), and 513 of the Federal
12 Water Pollution Control Act (33 U.S.C. 1291, 1371(c)(2),
13 and 1372) apply to the construction of a project carried
14 out in whole or in part with assistance made available
15 through a loan under this section in the same manner as
16 treatment works for which grants are made available
17 under the Federal Water Pollution Control Act.

18 (e) FEES.—The Administrator shall charge and col-
19 lect fees from State infrastructure financing authorities
20 receiving loans under this section in amounts the Adminis-
21 trator determines are sufficient to cover the administrative
22 expenses associated with carrying out this section and, as
23 provided in advance in appropriations Acts, use such
24 amounts to cover such expenses.

25 (f) RECORDS; AUDITS.—

1 (1) IN GENERAL.—A State infrastructure fi-
2 nancing authority receiving a loan under this section
3 shall keep such records and other pertinent docu-
4 ments as the Administrator shall prescribe by regu-
5 lation, including such records as the Administrator
6 may require to facilitate an effective audit of loans
7 made under this section.

8 (2) ACCESS.—The Administrator and the
9 Comptroller General of the United States, or their
10 duly authorized representatives, shall have access,
11 for the purpose of audits, to records and other perti-
12 nent documents kept under paragraph (1).

13 **SEC. 2504. GUARANTEES.**

14 (a) IN GENERAL.—

15 (1) USE OF GUARANTEES.—The Administrator
16 may make a guarantee under this subtitle for an ob-
17 ligation for construction of a large water infrastruc-
18 ture project in accordance with the requirements of
19 this section.

20 (2) SELECTION CRITERIA.—

21 (A) ESTABLISHMENT.—The Administrator
22 shall establish criteria for selecting among large
23 water infrastructure projects in making guaran-
24 tees under this subtitle.

1 (B) CRITERIA.—In establishing selection
2 criteria under this paragraph, the Adminis-
3 trator shall include consideration of the fol-
4 lowing:

5 (i) The extent to which the project is
6 nationally or regionally significant.

7 (ii) The creditworthiness of the
8 project, including a determination by the
9 Administrator that any financing has ap-
10 propriate features to ensure repayment.

11 (iii) The extent to which the project
12 uses new technologies that enhance the en-
13 vironmental benefits of the project.

14 (iv) The cost of a guarantee under
15 this subtitle.

16 (v) The extent to which the project
17 helps restore, maintain, or protect the en-
18 vironment.

19 (3) FISCAL YEAR LIMITATION.—The Adminis-
20 trator may not utilize more than 10 percent of the
21 funds made available under this subtitle for a fiscal
22 year to make guarantees under this section during
23 that fiscal year.

24 (4) TERMS AND CONDITIONS.—The Adminis-
25 trator may make a guarantee for a large water in-

1 frastructure project under this subtitle on such
2 terms and conditions (including requirements for au-
3 dits) as the Administrator determines appropriate.

4 (5) SECURITY.—The Administrator shall re-
5 quire a borrower to use a rate covenant, coverage re-
6 quirement, or similar security feature adequate to
7 ensure repayment of the obligation.

8 (b) GUARANTEE REQUIREMENTS.—

9 (1) PROBABILITY OF REPAYMENT.—The Ad-
10 ministrator may make a guarantee under this sub-
11 title only if the Administrator determines that there
12 is a high probability of repayment by the borrower
13 of the principal and interest on the obligation.

14 (2) AMOUNT.—

15 (A) PERCENTAGE OF TOTAL COST.—The
16 Administrator may make a guarantee under
17 this subtitle only if the amount of the obligation
18 does not exceed 75 percent of the total cost of
19 the large water infrastructure project, as esti-
20 mated at the time at which the guarantee is
21 issued.

22 (B) SUFFICIENCY.—The Administrator
23 may make a guarantee under this subtitle only
24 if the Administrator determines that the
25 amount of the obligation, when combined with

1 amounts available from other sources, will be
2 sufficient to carry out the project.

3 (3) NONSUBORDINATION.—The Administrator
4 may make a guarantee under this subtitle only if the
5 guarantee is not subordinate to other financing.

6 (4) INTEREST RATE.—The Administrator may
7 make a guarantee under this subtitle only if the Ad-
8 ministrator determines that the interest rate on the
9 obligation is appropriate, taking into account the
10 prevailing rate of interest in the private sector for
11 similar obligations.

12 (5) TERM.—The Administrator may make a
13 guarantee under this subtitle only if—

14 (A) repayment of the obligation is required
15 over a period not to exceed the lesser of—

16 (i) 35 years; or

17 (ii) 90 percent of the projected useful
18 life of the large water infrastructure
19 project to be financed by the obligation (as
20 determined by the Administrator); and

21 (B) payments on the obligation are sched-
22 uled to commence not later than 5 years after
23 the date of substantial completion of the large
24 water infrastructure project.

25 (c) CONFORMING REQUIREMENTS.—

1 (1) FISCAL SUSTAINABILITY PLAN.—The Ad-
2 ministrators may make a guarantee for a large water
3 infrastructure project under this subtitle only if the
4 owner or operator of such project commits to de-
5 velop and implement a fiscal sustainability plan that
6 meets the requirements of section 603(d)(1)(E) of
7 the Federal Water Pollution Control Act, as added
8 by this title.

9 (2) PRIORITY LIST.—The Administrator may
10 make a guarantee for a large water infrastructure
11 project under this subtitle only if such project is on
12 a State priority list under section 603(g) of the Fed-
13 eral Water Pollution Control Act (33 U.S.C.
14 1383(g)), as amended by this title.

15 (3) ADDITIONAL REQUIREMENTS.—The require-
16 ments of sections 211, 511(c)(1), and 513 of the
17 Federal Water Pollution Control Act (33 U.S.C.
18 1291, 1371(c)(2), and 1372) apply to the construc-
19 tion of a large water infrastructure project carried
20 out in whole or in part with financing made available
21 through an obligation guaranteed under this subtitle
22 in the same manner as treatment works for which
23 grants are made available under the Federal Water
24 Pollution Control Act.

25 (d) DEFAULTS.—

1 (1) PAYMENT BY ADMINISTRATOR.—

2 (A) IN GENERAL.—If a borrower defaults
3 on an obligation guaranteed under this subtitle
4 (as defined in regulations promulgated by the
5 Administrator and specified in the guarantee
6 contract), the holder of the guarantee shall have
7 the right to demand payment of the unpaid
8 amount from the Administrator.

9 (B) PAYMENT REQUIRED.—Within such
10 period as may be specified in the guarantee or
11 related agreements, the Administrator shall pay
12 to the holder of a guarantee the unpaid interest
13 on, and unpaid principal of, the obligation guar-
14 anteed under this subtitle as to which the bor-
15 rower has defaulted, unless the Administrator
16 finds that there was no default by the borrower
17 in the payment of interest or principal or that
18 the default has been remedied.

19 (C) FORBEARANCE.—Nothing in this sub-
20 section precludes any forbearance by the holder
21 of a guarantee for the benefit of the borrower
22 which may be agreed upon by the parties to the
23 obligation and approved by the Administrator.

24 (2) SUBROGATION.—

1 (A) IN GENERAL.—If the Administrator
2 makes a payment under paragraph (1), the Ad-
3 ministrator shall be subrogated to the rights of
4 the holder of the guarantee as specified in the
5 guarantee or related agreements.

6 (B) SUPERIORITY OF RIGHTS.—The rights
7 of the Administrator, with respect to any prop-
8 erty acquired pursuant to a guarantee or re-
9 lated agreements, shall be superior to the rights
10 of any other person with respect to the prop-
11 erty.

12 (e) PAYMENT OF PRINCIPAL AND INTEREST BY AD-
13 MINISTRATOR.—

14 (1) IN GENERAL.—With respect to any obliga-
15 tion guaranteed under this subtitle, the Adminis-
16 trator may enter into a contract to pay, and pay, a
17 holder of the guarantee, for and on behalf of the
18 borrower, from funds appropriated for that purpose,
19 the principal and interest payments which become
20 due and payable on the unpaid balance of the obliga-
21 tion if the Administrator finds that—

22 (A) the borrower is unable to meet the
23 payments and is not in default;

1 (B) it is in the public interest to permit
2 the borrower to continue to pursue the purposes
3 of the project;

4 (C) the probable net benefit to the Federal
5 Government in paying the principal and interest
6 will be greater than that which would result in
7 the event of a default; and

8 (D) the State or region in which the
9 project is located is experiencing a period of
10 local or regional economic hardship that has af-
11 fected the borrower's ability to meet the pay-
12 ments.

13 (2) AMOUNT.—The amount of the payment
14 that the Administrator is authorized to pay under
15 this subsection shall be no greater than the amount
16 of principal and interest that the borrower is obli-
17 gated to pay under the obligation.

18 (3) REIMBURSEMENT.—A payment may be
19 made under this subsection only if the borrower
20 agrees to reimburse the Administrator for the pay-
21 ment (including interest) on terms and conditions
22 that are satisfactory to the Administrator.

23 (f) FEES.—The Administrator shall charge and col-
24 lect fees from borrowers for guarantees made under this
25 subtitle in amounts the Administrator determines are suf-

1 ficient to cover the administrative expenses associated
2 with carrying out this subtitle and, as provided in advance
3 in appropriations Acts, use such amounts to cover such
4 expenses.

5 (g) RECORDS; AUDITS.—

6 (1) IN GENERAL.—A borrower shall keep such
7 records and other pertinent documents as the Ad-
8 ministrator shall prescribe by regulation, including
9 such records as the Administrator may require to fa-
10 cilitate an effective audit of guarantees made under
11 this subtitle.

12 (2) ACCESS.—The Administrator and the
13 Comptroller General of the United States, or their
14 duly authorized representatives, shall have access,
15 for the purpose of audits, to records and other perti-
16 nent documents kept under paragraph (1).

17 (h) FULL FAITH AND CREDIT.—The full faith and
18 credit of the United States is pledged to the payment of
19 all guarantees made under this subtitle.

20 **SEC. 2505. FUNDING.**

21 (a) AUTHORIZATION OF APPROPRIATIONS.—There
22 are authorized to be appropriated such sums as are nec-
23 essary to provide direct loans and the costs of guarantees
24 under this subtitle.

1 (b) ALTERNATE FUNDING MECHANISM.—With re-
2 spect to a guarantee for a large water infrastructure
3 project under this subtitle, in lieu of funding such guar-
4 antee through a separate appropriation, the borrower of
5 the obligation to be guaranteed may pay a one-time guar-
6 antee fee to the Administrator equal to the cost of the
7 guarantee, and the Administrator may use such fee, as
8 provided in advance in appropriations Acts, to make such
9 guarantee.

Amend the title so as to read: “A bill to amend the Federal Water Pollution Control Act with respect to permit requirements for dredged or fill material, and for other purposes.”.



