

**Calendar No. 135**

104TH CONGRESS  
1ST SESSION

**S. 92**

**[Report No. 104-102]**

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**A BILL**

To provide for the reconstitution of outstanding repayment obligations of the Administrator of the Bonneville Power Administration for the appropriated capital investments in the Federal Columbia River Power System.

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JULY 11 (legislative day, JULY 10), 1995

Reported without amendment

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1<sup>ST</sup> SESSION**S. 92****[Report No. 104-102]**

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**IN THE SENATE OF THE UNITED STATES**

JANUARY 4, 1995

Mr. HATFIELD (for himself, Mrs. MURRAY, Mr. GORTON, and Mr. PACKWOOD) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

JULY 11 (legislative day, JULY 10), 1995

Reported by Mr. MURKOWSKI, without amendment

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**A BILL**

To provide for the reconstitution of outstanding repayment obligations of the Administrator of the Bonneville Power Administration for the appropriated capital investments in the Federal Columbia River Power System.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Bonneville Power  
3 Administration Appropriations Refinancing Act”.

4 **SEC. 2. DEFINITIONS.**

5 For the purposes of this Act—

6 (1) “Administrator” means the Administrator  
7 of the Bonneville Power Administration;

8 (2) “capital investment” means a capitalized  
9 cost funded by Federal appropriations that—

10 (A) is for a project, facility, or separable  
11 unit or feature of a project or facility;

12 (B) is a cost for which the Administrator  
13 is required by law to establish rates to repay to  
14 the United States Treasury through the sale of  
15 electric power, transmission, or other services;

16 (C) excludes a Federal irrigation invest-  
17 ment; and

18 (D) excludes an investment financed by the  
19 current revenues of the Administrator or by  
20 bonds issued and sold, or authorized to be is-  
21 sued and sold, by the Administrator under sec-  
22 tion 13 of the Federal Columbia River Trans-  
23 mission System Act (16 U.S.C. 838(k));

24 (3) “new capital investment” means a capital  
25 investment for a project, facility, or separable unit

1 or feature of a project or facility, placed in service  
2 after September 30, 1995;

3 (4) “old capital investment” means a capital in-  
4 vestment whose capitalized cost—

5 (A) was incurred, but not repaid, before  
6 October 1, 1995, and

7 (B) was for a project, facility, or separable  
8 unit or feature of a project or facility, placed in  
9 service before October 1, 1995;

10 (5) “repayment date” means the end of the pe-  
11 riod within which the Administrator’s rates are to  
12 assure the repayment of the principal amount of a  
13 capital investment; and

14 (6) “Treasury rate” means—

15 (A) for an old capital investment, a rate  
16 determined by the Secretary of the Treasury,  
17 taking into consideration prevailing market  
18 yields, during the month preceding October 1,  
19 1995, on outstanding interest-bearing obliga-  
20 tions of the United States with periods to matu-  
21 rity comparable to the period between October  
22 1, 1995, and the repayment date for the old  
23 capital investment; and

24 (B) for a new capital investment, a rate  
25 determined by the Secretary of the Treasury,

1 taking into consideration prevailing market  
2 yields, during the month preceding the begin-  
3 ning of the fiscal year in which the related  
4 project, facility, or separable unit or feature is  
5 placed in service, on outstanding interest-bear-  
6 ing obligations of the United States with peri-  
7 ods to maturity comparable to the period be-  
8 tween the beginning of the fiscal year and the  
9 repayment date for the new capital investment.

10 **SEC. 3. NEW PRINCIPAL AMOUNTS.**

11 (a) Effective October 1, 1995, an old capital invest-  
12 ment has a new principal amount that is the sum of—

13 (1) the present value of the old payment  
14 amounts for the old capital investment, calculated  
15 using a discount rate equal to the Treasury rate for  
16 the old capital investment; and

17 (2) an amount equal to \$100,000,000 multi-  
18 plied by a fraction whose numerator is the principal  
19 amount of the old payment amounts for the old cap-  
20 ital investment and whose denominator is the sum of  
21 the principal amounts of the old payment amounts  
22 for all old capital investments.

23 (b) With the approval of the Secretary of the Treas-  
24 ury based solely on consistency with this Act, the Adminis-  
25 trator shall determine the new principal amounts under

1 section 3 and the assignment of interest rates to the new  
2 principal amounts under section 4.

3 (c) For the purposes of this section, “old payment  
4 amounts” means, for an old capital investment, the annual  
5 interest and principal that the Administrator would have  
6 paid to the United States Treasury from October 1, 1995,  
7 if this Act were not enacted, assuming that—

8 (1) the principal were repaid—

9 (A) on the repayment date the Adminis-  
10 trator assigned before October 1, 1993, to the  
11 old capital investment, or

12 (B) with respect to an old capital invest-  
13 ment for which the Administrator has not as-  
14 signed a repayment date before October 1,  
15 1993, on a repayment date the Administrator  
16 shall assign to the old capital investment in ac-  
17 cordance with paragraph 10(d)(1) of the ver-  
18 sion of Department of Energy Order RA  
19 6120.2 in effect on October 1, 1993; and

20 (2) interest were paid—

21 (A) at the interest rate the Administrator  
22 assigned before October 1, 1993, to the old cap-  
23 ital investment, or

24 (B) with respect to an old capital invest-  
25 ment for which the Administrator has not as-

1 signed an interest rate before October 1, 1993,  
2 at a rate determined by the Secretary of the  
3 Treasury, taking into consideration prevailing  
4 market yields, during the month preceding the  
5 beginning of the fiscal year in which the related  
6 project, facility, or separable unit or feature is  
7 placed in service, on outstanding interest-bear-  
8 ing obligations of the United States with peri-  
9 ods to maturity comparable to the period be-  
10 tween the beginning of the fiscal year and the  
11 repayment date for the old capital investment.

12 **SEC. 4. INTEREST RATE FOR NEW PRINCIPAL AMOUNTS.**

13 As of October 1, 1995, the unpaid balance on the  
14 new principal amount established for an old capital invest-  
15 ment under section 3 bears interest annually at the Treas-  
16 ury rate for the old capital investment until the earlier  
17 of the date that the new principal amount is repaid or  
18 the repayment date for the new principal amount.

19 **SEC. 5. REPAYMENT DATES.**

20 As of October 1, 1995, the repayment date for the  
21 new principal amount established for an old capital invest-  
22 ment under section 3 is no earlier than the repayment date  
23 for the old capital investment assumed in section 3(c)(1).

1 **SEC. 6. PREPAYMENT LIMITATIONS.**

2 During the period October 1, 1995, through Septem-  
3 ber 30, 2000, the total new principal amounts of old cap-  
4 ital investments, as established under section 3, that the  
5 Administrator may pay before their respective repayment  
6 dates shall not exceed \$100,000,000.

7 **SEC. 7. INTEREST RATES FOR NEW CAPITAL INVESTMENTS**  
8 **DURING CONSTRUCTION.**

9 (a) The principal amount of a new capital investment  
10 includes interest in each fiscal year of construction of the  
11 related project, facility, or separable unit or feature at a  
12 rate equal to the one-year rate for the fiscal year on the  
13 sum of—

14 (1) construction expenditures that were made  
15 from the date construction commenced through the  
16 end of the fiscal year, and

17 (2) accrued interest during construction.

18 (b) The Administrator is not required to pay, during  
19 construction of the project, facility, or separable unit or  
20 feature, the interest calculated, accrued, and capitalized  
21 under subsection (a).

22 (c) For the purposes of this section, “one-year rate”  
23 for a fiscal year means a rate determined by the Secretary  
24 of the Treasury, taking into consideration prevailing mar-  
25 ket yields, during the month preceding the beginning of  
26 the fiscal year, on outstanding interest-bearing obligations



1 of the United States with periods to maturity of approxi-  
2 mately one year.

3 **SEC. 8. INTEREST RATES FOR NEW CAPITAL INVESTMENTS.**

4 The unpaid balance on the principal amount of a new  
5 capital investment bears interest at the Treasury rate for  
6 the new capital investment from the date the related  
7 project, facility, or separable unit or feature is placed in  
8 service until the earlier of the date the new capital invest-  
9 ment is repaid or the repayment date for the new capital  
10 investment.

11 **SEC. 9. APPROPRIATED AMOUNTS.**

12 The Confederated Tribe of the Colville Reservation  
13 Grand Coulee Dam Settlement Act (Public Law No. 103-  
14 436) is amended by striking section 6 and its catchline  
15 and inserting the following:

16 **“SEC. 6. APPROPRIATED AMOUNTS.**

17 “(a) Without fiscal year limitation, there are appro-  
18 priated to the Administrator \$15.25 million in fiscal year  
19 1996, \$15.86 million in fiscal year 1997, \$16.49 million  
20 in fiscal year 1998, \$17.15 million in fiscal year 1999,  
21 \$17.84 million in fiscal year 2000, and \$4.10 million in  
22 each succeeding fiscal year so long as the Administrator  
23 makes annual payments to the Tribes under the settle-  
24 ment agreement.

25 “(b) For the purposes of this section—

1           “(1) ‘settlement agreement’ means that settle-  
2           ment agreement between the United States of Amer-  
3           ica and the Confederated Tribes of the Colville Res-  
4           ervation signed by the Tribes on April 16, 1994, and  
5           by the United States of America on April 21, 1994,  
6           which settlement agreement resolves claims of the  
7           Tribes in Docket 181–D of the Indian Claims Com-  
8           mission, which docket has been transferred to the  
9           United States Court of Federal Claims; and

10           “(2) ‘Tribes’ means the Confederated Tribes of  
11           the Colville Reservation, a federally recognized In-  
12           dian Tribe.”.

13   **SEC. 10. CONTRACT PROVISIONS.**

14           In each contract of the Administrator that provides  
15           for the Administrator to sell electric power, transmission,  
16           or related services, and that is in effect after September  
17           30, 1995, the Administrator shall offer to include, or as  
18           the case may be, shall offer to amend to include, provisions  
19           specifying that after September 30, 1995—

20           (1) the Administrator shall establish rates and  
21           charges on the basis that—

22           (A) the principal amount of an old capital  
23           investment shall be no greater than the new  
24           principal amount established under section 3 of  
25           this Act;

1 (B) the interest rate applicable to the un-  
2 paid balance of the new principal amount of an  
3 old capital investment shall be no greater than  
4 the interest rate established under section 4 of  
5 this Act;

6 (C) any payment of principal of an old  
7 capital investment shall reduce the outstanding  
8 principal balance of the old capital investment  
9 in the amount of the payment at the time the  
10 payment is tendered; and

11 (D) any payment of interest on the unpaid  
12 balance of the new principal amount of an old  
13 capital investment shall be a credit against the  
14 appropriate interest account in the amount of  
15 the payment at the time the payment is ten-  
16 dered;

17 (2) apart from charges necessary to repay the  
18 new principal amount of an old capital investment as  
19 established under section 3 of this Act and to pay  
20 the interest on the principal amount under section 4  
21 of this Act, no amount may be charged for return  
22 to the United States Treasury as repayment for or  
23 return on an old capital investment, whether by way  
24 of rate, rent, lease payment, assessment, user  
25 charge, or any other fee;

1 (3) amounts provided under section 1304 of  
2 title 31, United States Code, shall be available to  
3 pay, and shall be the sole source for payment of, a  
4 judgment against or settlement by the Administrator  
5 or the United States on a claim for a breach of the  
6 contract provisions required by this Act; and

7 (4) the contract provisions specified in this Act  
8 do not—

9 (A) preclude the Administrator from recov-  
10 ering, through rates or other means, any tax  
11 that is generally imposed on electric utilities in  
12 the United States, or

13 (B) affect the Administrator’s authority  
14 under applicable law, including section 7(g) of  
15 the Pacific Northwest Electric Power Planning  
16 and Conservation Act (16 U.S.C. 839e(g)), to—

17 (i) allocate costs and benefits, includ-  
18 ing but not limited to fish and wildlife  
19 costs, to rates or resources, or

20 (ii) design rates.

21 **SEC. 11. SAVINGS PROVISIONS.**

22 (a) This Act does not affect the obligation of the Ad-  
23 ministrator to repay the principal associated with each  
24 capital investment, and to pay interest on the principal,  
25 only from the “Administrator’s net proceeds,” as defined

1 in section 13 of the Federal Columbia River Transmission  
2 System Act (16 U.S.C. 838k(b)).

3 (b) Except as provided in section 6 of this Act, this  
4 Act does not affect the authority of the Administrator to  
5 pay all or a portion of the principal amount associated  
6 with a capital investment before the repayment date for  
7 the principal amount.