

## Calendar No. 527

107<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION**S. 1961****[Report No. 107-228]**

To improve the financial and environmental sustainability of the water  
programs of the United States.

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## IN THE SENATE OF THE UNITED STATES

FEBRUARY 15, 2002

Mr. GRAHAM (for himself, Mr. CRAPO, Mr. JEFFORDS, Mr. WARNER, Mr.  
MILLER, Mr. SMITH of Oregon, and Mr. ALLEN) introduced the following  
bill; which was read twice and referred to the Committee on Environment  
and Public Works

JULY 29, 2002

Reported by Mr. JEFFORDS, with an amendment

[Strike out all after the enacting clause and insert the part printed in italic]

**A BILL**

To improve the financial and environmental sustainability  
of the water programs of the United States.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*  
3       **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4       (a) **SHORT TITLE.**—This Act may be cited as the  
5       “~~Water Investment Act of 2002~~”.

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

See. 1. Short title; table of contents.  
 See. 2. Purposes.

**TITLE I—FEDERAL WATER POLLUTION CONTROL ACT  
 MODIFICATIONS**

See. 101. Definitions.  
 See. 102. Funding for Indian programs.  
 See. 103. Requirements for receipt of funds.

**TITLE II—SAFE DRINKING WATER ACT MODIFICATIONS**

See. 201. Planning, design, and preconstruction costs.  
 See. 202. State Revolving Loan Fund.  
 See. 203. Additional subsidization.  
 See. 204. Private utilities.  
 See. 205. Competition requirements.  
 See. 206. Technical assistance for small systems.  
 See. 207. Authorization of appropriations.

**TITLE III—INNOVATIONS IN FUND AND WATER QUALITY  
 MANAGEMENT**

See. 301. Transfer of funds.  
 See. 302. Demonstration program for water quality enhancement and manage-  
       ment.  
 See. 303. Rate study.  
 See. 304. Effects on policies and rights.

**TITLE IV—WATER RESOURCE PLANNING**

See. 401. Findings.  
 See. 402. Definition of Secretary.  
 See. 403. Actions.  
 See. 404. Report to Congress.  
 See. 405. Authorization of appropriations.

3       **SEC. 2. PURPOSES.**

4       The purposes of this Act are—

- 5               (1) to modernize State water pollution control  
 6       revolving funds and the allocation for those funds to  
 7       ensure that the funds distributed reflect water qual-  
 8       ity needs;

1           (2) to streamline State water pollution control  
 2           assistance programs and State drinking water treat-  
 3           ment assistance programs to maximize use of Fed-  
 4           eral funds and encourage maximum efficiency for  
 5           States and localities;

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

8           (4) to ensure that the Federal Government is  
 9           performing the appropriate role in analyzing re-  
 10          gional and national water supply trends.

# 11 **TITLE I—FEDERAL WATER POL-** 12 **LUTION CONTROL ACT MODI-** 13 **IFICATIONS**

## 14 **SEC. 101. DEFINITIONS.**

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

18           “(24) **DISADVANTAGED COMMUNITY.**—The  
 19          term ‘disadvantaged community’ means a commu-  
 20          nity or entity that meets affordability criteria estab-  
 21          lished, after public review and comment, by the  
 22          State in which the community or entity is located.

23           “(25) **SMALL TREATMENT WORKS.**—The term  
 24          ‘small treatment works’ means a treatment works

1 (as defined in section 212) serving a population of  
 2 10,000 or less.”.

3 **SEC. 102. FUNDING FOR INDIAN PROGRAMS.**

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

7 “(e) RESERVATION OF FUNDS.—

8 “(1) IN GENERAL.—For fiscal year 1987 and  
 9 each fiscal year thereafter, the Administrator shall  
 10 reserve, before allotments to the States under sec-  
 11 tion 604(a), not less than 0.5 percent nor more than  
 12 1.5 percent of the funds made available under sec-  
 13 tion 207.

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

19 “(A) Indian tribes;

20 “(B) former Indian reservations in Okla-  
 21 homa (as determined by the Secretary of the  
 22 Interior); and

23 “(C) Native villages (as defined in section  
 24 3 of the Alaska Native Claims Settlement Act  
 25 (43 U.S.C. 1602)).”.

1 **SEC. 103. REQUIREMENTS FOR RECEIPT OF FUNDS.**

2       ~~(a) GRANTS TO STATES FOR ESTABLISHMENT OF~~  
 3 ~~REVOLVING FUNDS.—Section 601(a) of the Federal~~  
 4 ~~Water Pollution Control Act (33 U.S.C. 1381(a)) is~~  
 5 ~~amended by striking “for providing assistance (1)” and~~  
 6 ~~all that follows and inserting the following: “for providing~~  
 7 ~~assistance for eligible projects in accordance with section~~  
 8 ~~603(c).”.~~

9       ~~(b) PROJECTS ELIGIBLE FOR ASSISTANCE.—Section~~  
 10 ~~603 of the Federal Water Pollution Control Act (33~~  
 11 ~~U.S.C. 1383) is amended by striking subsection (c) and~~  
 12 ~~inserting the following:~~

13       ~~“(c) PROJECTS ELIGIBLE FOR ASSISTANCE.—~~

14           ~~“(1) IN GENERAL.—Funds available to each~~  
 15 ~~State water pollution control revolving fund shall be~~  
 16 ~~used only for—~~

17           ~~“(A) providing financial assistance to a~~  
 18 ~~municipality, intermunicipal, interstate, or~~  
 19 ~~State agency, or private utility, for construction~~  
 20 ~~(including costs for planning, design, associated~~  
 21 ~~preconstruction, and necessary activities for~~  
 22 ~~siting the facility and related elements) of treat-~~  
 23 ~~ment works (as defined in section 212);~~

24           ~~“(B) implementation of a management~~  
 25 ~~program established under section 319;~~

1           “(C) development and implementation of a  
2           conservation and management plan under sec-  
3           tion 320;

4           “(D) water conservation projects or activi-  
5           ties that provide 1 or more water quality bene-  
6           fits; or

7           “(E) reuse, reclamation, or recycling  
8           projects that provide 1 or more water quality  
9           benefits.

10          “(2) MAINTENANCE OF FUND.—

11           “(A) IN GENERAL.—The fund shall be es-  
12           tablished, maintained, and credited with repay-  
13           ments.

14           “(B) AVAILABILITY.—Any balances in the  
15           fund shall be available in perpetuity for pro-  
16           viding financial assistance described in para-  
17           graph (1).

18          “(3) APPROACHES.—Projects eligible to receive  
19           assistance from a State water pollution control re-  
20           volving fund under this title may include projects  
21           that use 1 or more nontraditional approaches (such  
22           as land conservation, low-impact development tech-  
23           nologies, redevelopment of waterfront brownfields,  
24           watershed management actions, decentralized waste-

1 water treatment innovations, and other nonpoint  
 2 best management practices).”.

3 ~~(c) EXTENSION OF LOANS; TYPES OF ASSISTANCE.—~~

4 Section 603(d) of the Federal Water Pollution Control Act  
 5 (33 U.S.C. 1383(d)) is amended—

6 (1) in paragraph (1)—

7 (A) in subparagraph (A), by striking “, at  
 8 terms not to exceed 20 years”;

9 (B) by striking subparagraph (B) and in-  
 10 serting the following:

11 “(B)(i) annual principal and interest pay-  
 12 ments shall commence not later than 1 year  
 13 after the date of completion of any project for  
 14 which the loan was made; and

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

19 (C) by redesignating subparagraphs (C)  
 20 and (D) as subparagraphs (D) and (E), respec-  
 21 tively;

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

“(C) in the case of a disadvantaged community, a State may provide an extended term for a loan if the extended term—

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

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

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

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

(2) in paragraph (6); by striking “and” at the end;

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

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

“(7) subject to subsection (c)(2), by a State to provide additional subsidization (including forgiveness of principal) to 1 or more treatment works for



1 use in developing technical, managerial, and finan-  
2 cial capacity in accordance with subsection (i);

3 “(8) by a State to provide additional subsidiza-  
4 tion (including forgiveness of principal) to 1 or more  
5 treatment works for a purpose other than a purpose  
6 specified in paragraph (7) or (9); except that—

7 “(A) for the first fiscal year that begins  
8 after the date of enactment of this paragraph  
9 and each fiscal year thereafter, the total  
10 amount of subsidization provided by a State  
11 under this paragraph shall not exceed 15 per-  
12 cent of the amount of all capitalization grants  
13 received by the State for the fiscal year;

14 “(B) notwithstanding section 204(b)(1),  
15 the State, as part of an assistance agreement  
16 between the State and each applicable treat-  
17 ment works, shall ensure, to the maximum ex-  
18 tent practicable, that additional subsidization  
19 provided under this paragraph is directed  
20 through the user charge rate system to dis-  
21 advantaged users within the residential user  
22 class of the community (as defined by the State  
23 based on affordability criteria and after an op-  
24 portunity for public review and comment) in  
25 which the treatment works is located; and

1           ~~“(C) a community that receives assistance~~  
 2           ~~as a disadvantaged community under paragraph~~  
 3           ~~(9) shall not be eligible for assistance under~~  
 4           ~~this paragraph;~~

5           ~~“(9) subject to subsection (e)(2), by the State~~  
 6           ~~to provide additional subsidization (including for-~~  
 7           ~~giveness of principal) to a disadvantaged community;~~  
 8           ~~or to a community or entity that the State expects~~  
 9           ~~to become a disadvantaged community as the result~~  
 10           ~~of a proposed project, that receives a loan from the~~  
 11           ~~State under this title; and”;~~ and

12           ~~(5) in paragraph (10) (as redesignated by para-~~  
 13           ~~graph (3)), by striking “that such amounts shall not~~  
 14           ~~exceed 4” and inserting “that, beginning in fiscal~~  
 15           ~~year 2003, those amounts shall not exceed 5”.~~

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

19           ~~(1) by striking “(e)” and all that follows~~  
 20           ~~through “If a State” and inserting the following:~~

21           ~~“(e) LIMITATIONS.—~~

22           ~~“(1) PREVENTION OF DOUBLE BENEFITS.—If a~~  
 23           ~~State”;~~ and

24           ~~(2) by adding at the end the following:~~

1           ~~“(2) TOTAL AMOUNT OF SUBSIDIES.—For each~~  
 2           fiscal year, the total amount of loan subsidies made  
 3           by a State under paragraphs ~~(7)~~ and ~~(9)~~ of sub-  
 4           section ~~(d)~~ may not exceed ~~30~~ percent of the amount  
 5           of all capitalization grants received by the State for  
 6           the fiscal year.”.

7           ~~(e) CONSISTENCY WITH PLANNING REQUIRE-~~  
 8           MENTS.—Section 603(f) of the Federal Water Pollution  
 9           Control Act (~~33 U.S.C. 1383(f)~~) is amended—

10           ~~(1) by striking “A State may” and inserting the~~  
 11           following:

12           ~~“(1) IN GENERAL.—A State may”;~~

13           ~~(2) by striking “320 of this Act.” and inserting~~  
 14           ~~“320.”; and~~

15           ~~(3) by adding at the end the following:~~

16           ~~“(2) COMMUNITY DEVELOPMENT.—A State~~  
 17           that provides financial assistance from the water  
 18           pollution control revolving fund of the State shall en-  
 19           sure that applicants for the assistance consult and  
 20           coordinate with, as appropriate, agencies responsible  
 21           for developing any—

22           ~~“(A) local land use plans;~~

23           ~~“(B) regional transportation improvement~~  
 24           and long-range transportation plans; and

1                   “(C) State, regional, and municipal water-  
2                   shed plans.”.

3           (f) PRIORITY SYSTEM REQUIREMENT.—Section 603  
4 of the Federal Water Pollution Control Act (33 U.S.C.  
5 1383) is amended by striking subsection (g) and inserting  
6 the following:

7           “(g) PRIORITY SYSTEM REQUIREMENT.—

8                   “(1) DEFINITION OF STATE AGENCY.—In this  
9                   subsection, the term ‘State agency’ means the agen-  
10                  cy of a State having jurisdiction over water quality  
11                  management (including the establishment of water  
12                  quality standards).

13                  “(2) DEVELOPMENT.—

14                   “(A) IN GENERAL.—Notwithstanding sec-  
15                  tion 216, each State agency shall develop and  
16                  periodically update a project priority system for  
17                  use in prioritizing projects that are eligible to  
18                  receive funding from the water pollution control  
19                  revolving fund of the State in accordance with  
20                  subsection (e).

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

23                               “(i) take into consideration all avail-  
24                               able water quality data for the State; and

1                   “(ii) provide for public notice and op-  
 2                   portunity for comment, including signifi-  
 3                   cant public outreach.

4                   “(3) SUMMARY OF PROJECTS.—

5                   “(A) IN GENERAL.—Each State agency,  
 6                   after public notice and opportunity for com-  
 7                   ment, shall biennially publish a summary of  
 8                   projects in the State that are eligible for assist-  
 9                   ance under this title.

10                  “(B) INCLUSIONS.—The summary under  
 11                  subparagraph (A) shall include—

12                   “(i) the priority assigned to each  
 13                   project under the priority system of the  
 14                   State developed under paragraph (2); and

15                   “(ii) the funding schedule for each  
 16                   project, to the extent that such information  
 17                   is available.

18                  “(4) STATEMENT OF POLICY.—It is the policy  
 19                  of Congress that projects in a State that are carried  
 20                  out using assistance provided under this title shall  
 21                  be funded, to the maximum extent practicable,  
 22                  through a project priority system of the State that,  
 23                  in the estimation of the State, is designed to achieve  
 24                  optimum water quality management, consistent with

1 the public health and water quality goals and re-  
 2 quirements of this Act.”.

3 ~~(g) ADDITIONAL REQUIREMENTS FOR WATER POL-~~  
 4 ~~LUTION CONTROL REVOLVING FUNDS.—~~Section 603 of  
 5 the Federal Water Pollution Control Act (33 U.S.C. 1383)  
 6 is amended by adding at the end the following:

7 “(i) ~~TECHNICAL, MANAGERIAL, AND FINANCIAL CA-~~  
 8 ~~PACITY FOR OPTIMAL PERFORMANCE.—~~

9 “(1) ~~DEFINITION OF STATE AGENCY.—~~In this  
 10 subsection, the term ‘State agency’ has the meaning  
 11 given the term in subsection (g)(1).

12 “(2) ~~STRATEGY.—~~

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

18 “(i) attaining and maintaining tech-  
 19 nical, managerial, operations, maintenance,  
 20 and capital investments; and

21 “(ii) meeting and sustaining compli-  
 22 ance with applicable Federal and State  
 23 laws.

24 “(B) ~~REQUIREMENTS.—~~In preparing the  
 25 strategy described in subparagraph (A), the

1 State shall consider, solicit public comment on,  
2 and include in the strategy—

3 “(i) a description of the institutional,  
4 regulatory, financial, tax, or legal factors  
5 at the Federal, State, and local levels that  
6 encourage or impair the development of  
7 technical, managerial, and financial capac-  
8 ity; and

9 “(ii) a description of the manner in  
10 which the State intends to use the authori-  
11 ties and resources of the State to assist  
12 treatment works in attaining and main-  
13 taining technical, managerial, and financial  
14 capacity.

15 “(3) DETERMINATION BY ADMINISTRATOR.—

16 Except as provided in subsection (k), if the Adminis-  
17 trator determines that a State agency has not devel-  
18 oped or implemented a strategy in accordance with  
19 paragraph (2), the Administrator shall—

20 “(A) withhold 20 percent of each capital-  
21 ization grant made to the State under this title  
22 after the date of the determination; and

23 “(B) permit the State a 1-year period, be-  
24 ginning on the date on which funds are with-  
25 held under subparagraph (A), during which the

1 State may implement a strategy in accordance  
 2 with paragraph (2).

3 ~~“(4) REALLOTMENT OF FUNDS.—~~

4 ~~“(A) IN GENERAL.—If, after the 1-year~~  
 5 ~~period described in paragraph (3)(B), the Ad-~~  
 6 ~~ministrator is not satisfied that a State has ear-~~  
 7 ~~ried out adequate corrective action relating to~~  
 8 ~~the development and implementation of a strat-~~  
 9 ~~egy required under paragraph (2), the Adminis-~~  
 10 ~~trator shall reallo~~ all funds of the State with-  
 11 ~~held by the Administrator as of that date in ae-~~  
 12 ~~cordance with subparagraph (B).~~

13 ~~“(B) REQUIREMENTS FOR REALLOT-~~  
 14 ~~MENT.—The Administrator shall reallo~~ funds  
 15 ~~under subparagraph (A)—~~

16 ~~“(i) only to States that the Adminis-~~  
 17 ~~trator determines to be in compliance with~~  
 18 ~~this subsection; and~~

19 ~~“(ii) in the same ratio provided under~~  
 20 ~~the most recent formula for the allotment~~  
 21 ~~of funds under this title.~~

22 ~~“(5) CONDITION FOR RECEIPT OF ASSIST-~~  
 23 ~~ANCE.—~~

24 ~~“(A) IN GENERAL.—Except as provided in~~  
 25 ~~subparagraph (B) and subsection (k), beginning~~



1 on the date that is 3 years after the date of en-  
2 actment of this subsection, the State shall re-  
3 quire each treatment works that receives signifi-  
4 cant assistance under this title to demonstrate  
5 adequate technical, managerial, and financial  
6 capacity, including the establishment and imple-  
7 mentation by the treatment works of an asset  
8 management plan (for which the Administrator  
9 may publish information to assist States in de-  
10 termining required content) that—

11 “(i) conforms to generally accepted in-  
12 dustry practices; and

13 “(ii) includes—

14 “(I) an inventory of existing as-  
15 sets (including an estimate of the use-  
16 ful life of those assets); and

17 “(II) an optimal schedule of op-  
18 erations, maintenance, and capital in-  
19 vestment required to meet and sustain  
20 performance objectives for the treat-  
21 ment works established in accordance  
22 with applicable Federal and State  
23 laws over the useful life of the treat-  
24 ment works.

1           ~~“(B) EXCEPTION.—~~Notwithstanding sub-  
 2           paragraph (A), a treatment works may receive  
 3           assistance under this title if the State deter-  
 4           mines that the assistance would enable the  
 5           treatment works to attain adequate technical,  
 6           managerial, and financial capacity.

7           ~~“(j) RESTRUCTURING.—~~Notwithstanding section  
 8           204(b)(1), except as provided in subsection (k), a State  
 9           may provide assistance from the water pollution control  
 10          revolving fund of the State for a project only if the recipi-  
 11          ent of the assistance—

12           ~~“(1) has considered—~~

13           ~~“(A) consolidating management functions~~  
 14           ~~or ownership with another facility;~~

15           ~~“(B) forming public-private partnerships~~  
 16           ~~or other cooperative partnerships; and~~

17           ~~“(C) using nonstructural alternatives or~~  
 18           ~~technologies that may be more environmentally~~  
 19           ~~sensitive; and~~

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

23           ~~“(A) reflects the actual cost of service pro-~~  
 24           ~~vided by the recipient; and~~

1                   “(B) addresses capital replacement funds;  
2                   and

3                   “(3) has in effect, or will have in effect on com-  
4                   pletion of the project, an asset management plan de-  
5                   scribed in subsection (i)(5).

6           ~~“(k) EXEMPTION FOR ASSISTANCE SOLELY FOR~~  
7 ~~PLANNING, DESIGN, AND PRECONSTRUCTION ACTIVI-~~  
8 ~~TIES.—Subsection (j) and paragraphs (3) and (5) of sub-~~  
9 ~~section (i) shall not apply to assistance provided under this~~  
10 ~~title that is to be used by a treatment works solely for~~  
11 ~~planning, design, or preconstruction activities.~~

12           ~~“(l) TECHNICAL ASSISTANCE.—~~

13                   ~~“(1) DEFINITION OF QUALIFIED NONPROFIT~~  
14 ~~TECHNICAL ASSISTANCE PROVIDER.—In this sub-~~  
15 ~~section, the term ‘qualified nonprofit technical as-~~  
16 ~~sistance provider’ means a nonprofit entity that pro-~~  
17 ~~vides technical assistance (such as circuit-rider pro-~~  
18 ~~grams, training, and preliminary engineering evalua-~~  
19 ~~tions) to small treatment works that—~~

20                   ~~“(A) serve not more than 3,300 users; and~~

21                   ~~“(B) are located in a rural area.~~

22           ~~“(2) GRANT PROGRAM.—~~

23                   ~~“(A) IN GENERAL.—The Administrator~~  
24 ~~may make grants to a qualified nonprofit tech-~~  
25 ~~nical assistance provider for use in assisting~~

1 small treatment works in planning, developing,  
 2 and obtaining financing for eligible projects de-  
 3 scribed in subsection (c).

4 “(B) DISTRIBUTION OF GRANTS.—In ear-  
 5 rying out this subsection, the Administrator  
 6 shall ensure, to the maximum extent prac-  
 7 ticable, that technical assistance provided using  
 8 funds from a grant under subparagraph (A) is  
 9 made available in each State.

10 “(C) CONSULTATION.—As a condition of  
 11 receiving a grant under this subsection, a quali-  
 12 fied nonprofit technical assistance provider shall  
 13 consult with each State in which grant funds  
 14 are to be expended or otherwise made available  
 15 before the grant funds are expended or made  
 16 available in the State.

17 “(3) AUTHORIZATION OF APPROPRIATIONS.—

18 There is authorized to be appropriated to carry out  
 19 this subsection \$7,000,000 for each of fiscal years  
 20 2003 through 2007.

21 “(m) COMPETITION REQUIREMENTS.—

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

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

6           ~~“(n) NO JUDICIAL REVIEW.—A determination by a~~  
 7           ~~State to provide financial assistance under this title shall~~  
 8           ~~not be subject to judicial review.”.~~

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

13          ~~“(a) FORMULA.—~~

14                 ~~“(1) ALLOCATION.—~~

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

20                                 ~~“(i) AMOUNTS OF \$1,350,000,000 OR~~  
 21                                 ~~LESS.—\$1,350,000,000 (or, if the total~~  
 22                                 ~~amount made available for the fiscal year~~  
 23                                 ~~is less than that amount, the total amount~~  
 24                                 ~~made available) shall be allocated in ac-~~  
 25                                 ~~cordance with a formula that allocates to~~

each State the proportional share of the State needs identified in the most recent survey conducted under section 516(2), except that the minimum proportionate share provided to each State shall be 1.1 percent of available funds.

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

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

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

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

“(iii) AMOUNTS GREATER THAN \$1,550,000,000.—Any amounts equal to or

1 greater than \$1,550,000,000 that are  
2 made available for the fiscal year shall be  
3 allocated in accordance with a formula that  
4 allocates to each State the proportional  
5 share of the State needs identified in the  
6 most recent survey conducted under sec-  
7 tion 516(2), except that the minimum pro-  
8 portionate share provided to each State  
9 shall be 1.1 percent of available funds.

10 “(B) SUBSEQUENT FISCAL YEARS.—For  
11 fiscal year 2007 and each fiscal year thereafter,  
12 funds shall be allocated in accordance with a  
13 formula that allocates to each State the propor-  
14 tional share of the State needs identified in the  
15 most recent survey conducted pursuant to sec-  
16 tion 516(2), except that the minimum propor-  
17 tionate share provided to each State shall be 1  
18 percent of available funds.

19 “(2) PRIVATE UTILITIES.—If a State elects to  
20 include the needs of private utilities in the needs  
21 survey used to develop the allocation formula de-  
22 scribed in paragraph (1), the State shall ensure that  
23 the private utilities are eligible to receive funds  
24 under this title.”.

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

4               (1) in subsection (c)—

5                       (A) by inserting “(including significant  
 6                       public outreach)” after “review”; and

7                       (B) by striking paragraph (1) and insert-  
 8                       ing the following:

9               “(1) a summary of the priority projects devel-  
 10              oped under section 603(g) for which the State in-  
 11              tends to provide assistance from the water pollution  
 12              control revolving fund of the State for the year cov-  
 13              ered by the plan;”, and

14              (2) in subsection (d)—

15                       (A) in the subsection heading, by striking  
 16                       “REPORT” and inserting “REPORTS”;

17                       (B) by striking “Beginning the” and in-  
 18                       serting the following:

19              “(1) IN GENERAL.—Beginning in the”; and

20                       (C) by adding at the end the following:

21              “(2) REPORT ON TECHNICAL, MANAGERIAL,  
 22              AND FINANCIAL CAPACITY.—Not later than 2 years  
 23              after the date on which a State first adopts a strat-  
 24              egy in accordance with section 603(j)(2), and annu-  
 25              ally thereafter, the State shall submit to the Admin-



1       istrator a report on the progress made in improving  
 2       the technical, managerial, and financial capacity of  
 3       treatment works in the State (including the progress  
 4       of the State in complying with the amendments to  
 5       section 603 made by the Water Investment Act of  
 6       2002).

7           “(3) AVAILABILITY.—A State that submits a  
 8       report under this subsection shall make the report  
 9       available to the public.”

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

13      **“SEC. 607. AUTHORIZATION OF APPROPRIATIONS.**

14       “(a) IN GENERAL.—There are authorized to be ap-  
 15      propriated to carry out this title—

16           “(1) \$3,200,000 for each of fiscal years 2003  
 17       and 2004;

18           “(2) \$3,600,000 for fiscal year 2005;

19           “(3) \$4,000,000 for fiscal year 2006; and

20           “(4) \$6,000,000 for fiscal year 2007.

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

23       “(c) RESERVATION FOR NEEDS SURVEYS.—Of the  
 24      amount made available under subsection (a) to carry out  
 25      this title for a fiscal year, the Administrator may reserve

1 not more than \$1,000,000 per year to pay the costs of  
 2 conducting needs surveys under section 516(2).”.

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

6 (1) in the first sentence, by inserting “in ac-  
 7 cordance with section 603(g)” before “the deter-  
 8 mination”; and

9 (2) by striking the “Not less than 25 per cen-  
 10 tum” and all that follows.

## 11 **TITLE II—SAFE DRINKING** 12 **WATER ACT MODIFICATIONS**

### 13 **SEC. 201. PLANNING, DESIGN, AND PRECONSTRUCTION** 14 **COSTS.**

15 Section 1452(a)(2) of the Safe Drinking Water Act  
 16 (42 U.S.C. 300j-12(a)(2)) is amended in the second sen-  
 17 tence by striking “(not” and inserting “(including plan-  
 18 ning, design, and associated preconstruction expenditures  
 19 but not”.

### 20 **SEC. 202. STATE REVOLVING LOAN FUND.**

21 (a) IN GENERAL.—Section 1452(a)(3)(B)(ii) of the  
 22 Safe Drinking Water Act (42 U.S.C. 300j-  
 23 12(a)(3)(B)(ii)) is amended by inserting “and the forma-  
 24 tion of regional partnerships” after “procedures”.

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

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

9           (1) in paragraph (1)—

10               (A) in subparagraph (C), by striking  
 11 “and” at the end; and

12               (B) by adding at the end the following:

13               “(E) the recipient of the loan funds con-  
 14 sider, during the planning and engineering  
 15 phase of each project for which the loan funds  
 16 are received—

17                   “(i) consolidating management func-  
 18 tions or ownership with another facility;

19                   “(ii) forming public-private partner-  
 20 ships or other cooperative partnerships;  
 21 and

22                   “(iii) using nonstructural alternatives  
 23 or technologies that may be more environ-  
 24 mentally sensitive;

1           “(F) the recipient of the loan funds has in  
2 effect a plan to achieve, within a reasonable pe-  
3 riod of time, a rate structure that, to the max-  
4 imum extent practicable—

5                   “(i) reflects the actual cost of service  
6 provided by the recipient; and

7                   “(ii) addresses capital replacement  
8 funds; and

9           “(G) the recipient of each loan that re-  
10 flects a significant capital investment has in ef-  
11 fect, or will have in effect on completion of the  
12 project, an asset management plan (for which  
13 the Administrator may publish information to  
14 assist States in determining required content)  
15 that—

16                   “(i) conforms to generally accepted in-  
17 dustry practices; and

18                   “(ii) includes—

19                           “(I) an inventory of existing as-  
20 sets (including an estimate of the use-  
21 ful life of the assets); and

22                           “(II) an optimal schedule of op-  
23 erations, maintenance, and capital in-  
24 vestment required to meet and sustain  
25 performance objectives;”;

1           (2) in paragraph (4), by striking “and” at the  
2       end;

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

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

6           “~~(6) to reduce costs incurred by a municipality~~  
7       in issuing bonds.”.

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

12           “~~(5) CONSULTATION AND COORDINATION WITH~~  
13       STATE AGENCIES.—A State that provides financial  
14       assistance from the drinking water revolving fund of  
15       the State shall ensure that applicants for the assist-  
16       ance consult and coordinate with, as appropriate,  
17       agencies responsible for developing any—

18           “~~(A) local land use plans;~~

19           “~~(B) regional transportation improvement~~  
20       and long-range transportation plans; and

21           “~~(C) State, regional, and municipal water-~~  
22       shed plans.

23           “~~(6) NO JUDICIAL REVIEW.—A determination~~  
24       by a State to provide financial assistance under this  
25       section shall not be subject to judicial review.”.

1       (e) ~~OTHER AUTHORIZED ACTIVITIES.—~~Section  
 2   1452(k)(1) of the Safe Drinking Water Act (42 U.S.C.  
 3   300j-12(k)(1)) is amended by striking subparagraph (D)  
 4   and inserting the following:

5               “(D) Make expenditures for the develop-  
 6               ment and implementation of source water pro-  
 7               tection programs.

8               “(E) Provide assistance for consolidation  
 9               among community water systems for the pur-  
 10              pose of—

11               “(i) meeting national primary drink-  
 12               ing water standards; or

13               “(ii) making more efficient use of  
 14               funds made available under subsection  
 15               (a)(2).”.

16 **SEC. 203. ADDITIONAL SUBSIDIZATION.**

17       Section 1452(d)(1) of the Safe Drinking Water Act  
 18   (42 U.S.C. 300j-12(d)(1)) is amended—

19               (1) by striking “Notwithstanding any other pro-  
 20               vision” and inserting the following:

21               “(A) ~~IN GENERAL.—~~Notwithstanding any  
 22               other provision”; and

23               (2) by adding at the end the following:

24               “(B) ~~SUBSIDIZATION FOR DISADVANTAGED~~  
 25               ~~USERS.—~~

1           “(i) IN GENERAL.—Subject to clause  
 2           (ii), a State may provide additional sub-  
 3           sidization under subparagraph (A) for a  
 4           fiscal year for a community that does not  
 5           meet the definition of a disadvantaged  
 6           community if the State, as part of the as-  
 7           sistance agreement between the State and  
 8           the recipient of the assistance, ensures  
 9           that the additional subsidization provided  
 10          under this paragraph is directed through  
 11          the user charge rate system to disadvan-  
 12          taged users within the residential user  
 13          class of the community (as defined by the  
 14          State based on affordability criteria).

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

20          “(iii) GUIDANCE.—The Administrator  
 21          may publish guidance to assist States in  
 22          identifying disadvantaged users described  
 23          in clause (i).”.

1 **SEC. 204. PRIVATE UTILITIES.**

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

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

6 “(1) IN GENERAL.—The Administrator”; and

7 (2) by adding at the end the following:

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

13 **SEC. 205. COMPETITION REQUIREMENTS.**

14 Section 1452 of the Safe Drinking Water Act (42  
15 U.S.C. 300j-12) is amended by adding at the end the fol-  
16 lowing:

17 “(s) COMPETITION REQUIREMENTS.—

18 “(1) IN GENERAL.—Except as provided in para-  
19 graph (2), as a condition of receipt of funds under  
20 this section, no specification for bids prepared for  
21 projects to be carried out using the funds shall be  
22 written in such a manner as to contain any propri-  
23 etary, exclusionary, or discriminatory requirement,  
24 other than requirements based on performance, un-  
25 less such requirements are necessary to test or dem-  
26 onstrate a specific thing or to provide for necessary



1 interchangeability of parts and equipment. If, in the  
 2 judgment of a recipient of funds, it is impractical or  
 3 uneconomical to make a clear and accurate descrip-  
 4 tion of the technical requirements, a 'brand name or  
 5 equal' description may be used as a means to define  
 6 the performance or other salient requirements of a  
 7 procurement, and in doing so the recipient need not  
 8 establish the existence of any source other than the  
 9 brand or source so named.

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

15 **SEC. 206. TECHNICAL ASSISTANCE FOR SMALL SYSTEMS.**

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

19 (1) in paragraph (2), by inserting “technology  
 20 verification, pilot and field testing of innovative tech-  
 21 nologies, and” after “shall include”; and

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

24 “(6) REVIEW AND EVALUATION.—

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

5           “(B) DISQUALIFICATION.—If, in carrying  
 6           out this subsection, the Administrator deter-  
 7           mines that a small public water system tech-  
 8           nology assistance center is not carrying out the  
 9           duties of the center, the Administrator—

10           “(i) shall notify the center of the de-  
 11           termination of the Administrator; and

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

15           “(7) AUTHORIZATION OF APPROPRIATIONS.—

16           There is authorized to be appropriated to carry out  
 17           this subsection \$5,000,000 for each of fiscal years  
 18           2003 through 2007, to be distributed to the centers  
 19           in accordance with this subsection.”.

20           (b) ENVIRONMENTAL FINANCE CENTERS.—Section  
 21           1420(g) of the Safe Drinking Water Act (42 U.S.C. 300g-  
 22           9(g)) is amended by striking paragraph (4) and inserting  
 23           the following:

24           “(4) AUTHORIZATION OF APPROPRIATIONS.—

25           There is authorized to be appropriated to carry out

1       this subsection \$1,500,000 for each of fiscal years  
2       2003 through 2007.”.

3   **SEC. 207. AUTHORIZATION OF APPROPRIATIONS.**

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

7       “(m) AUTHORIZATION OF APPROPRIATIONS.—

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

10               “(A) \$1,500,000 for fiscal year 2003;

11               “(B) \$2,000,000 for each of fiscal years  
12       2004 and 2005;

13               “(C) \$3,500,000 for fiscal year 2006; and

14               “(D) \$6,000,000 for fiscal year 2007.

15           “(2) AVAILABILITY.—Amounts made available  
16       under this subsection shall remain available until ex-  
17       pended.

18           “(3) RESERVATION FOR NEEDS SURVEYS.—Of  
19       the amount made available under paragraph (1) to  
20       carry out this section for a fiscal year, the Adminis-  
21       trator may reserve not more than \$1,000,000 per  
22       year to pay the costs of conducting needs surveys  
23       under subsection (h).”.

1 **TITLE III—INNOVATIONS IN**  
 2 **FUND AND WATER QUALITY**  
 3 **MANAGEMENT**

4 **SEC. 301. TRANSFER OF FUNDS.**

5 (a) WATER POLLUTION CONTROL FUND.—Section  
 6 603 of the Federal Water Pollution Control Act (33  
 7 U.S.C. 1383) is amended by adding at the end the fol-  
 8 lowing:

9 “(i) TRANSFER OF FUNDS.—

10 “(1) IN GENERAL.—A Governor of the State  
 11 may—

12 “(A) reserve up to 33 percent of a capital-  
 13 ization grant made under this title and add the  
 14 funds reserved to any funds provided to the  
 15 State under section 1452 of the Safe Drinking  
 16 Water Act (42 U.S.C. 300j-12); and

17 “(B) reserve in any year an amount up to  
 18 the amount that may be reserved under sub-  
 19 paragraph (A) for that year from capitalization  
 20 grants made under section 1452 of that Act (42  
 21 U.S.C. 300j-12) and add the reserved funds to  
 22 any funds provided to the State under this title.

23 “(2) STATE MATCH.—Funds reserved under  
 24 this subsection shall not be considered to be a State  
 25 contribution for a capitalization grant required

1 under this title or section 1452(b) of the Safe  
 2 Drinking Water Act (42 U.S.C. 300j-12(b)).”.

3 (b) SAFE DRINKING WATER FUND.—Section  
 4 1452(g) of the Safe Drinking Water Act (42 U.S.C. 300j-  
 5 12(g)) is amended—

6 (1) in paragraph (2), by striking “4” and in-  
 7 serting “5”; and

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

9 “(5) TRANSFER OF FUNDS.—

10 “(A) IN GENERAL.—A Governor of the  
 11 State may—

12 “(i) reserve up to 33 percent of a cap-  
 13 italization grant made under this section  
 14 and add the funds reserved to any funds  
 15 provided to the State under section 601 of  
 16 the Federal Water Pollution Control Act  
 17 (33 U.S.C. 1381); and

18 “(ii) reserve in any year an amount  
 19 up to the amount that may be reserved  
 20 under clause (i) for that year from capital-  
 21 ization grants made under section 601 of  
 22 that Act (33 U.S.C. 1381) and add the re-  
 23 served funds to any funds provided to the  
 24 State under this section.

1           “(B) STATE MATCH.—Funds reserved  
 2           under this paragraph shall not be considered to  
 3           be a State match of a capitalization grant re-  
 4           quired under this section or section 602(b) of  
 5           the Federal Water Pollution Control Act (33  
 6           U.S.C. 1382(b)).”.

7   **SEC. 302. DEMONSTRATION PROGRAM FOR WATER QUAL-**  
 8           **ITY ENHANCEMENT AND MANAGEMENT.**

9           (a) ESTABLISHMENT.—

10           (1) IN GENERAL.—As soon as practicable after  
 11           the date of enactment of this Act, the Administrator  
 12           of the Environmental Protection Agency (referred to  
 13           in this section as the “Administrator”) shall estab-  
 14           lish a nationwide demonstration program to—

15                   (A) promote innovations in technology and  
 16                   alternative approaches to water quality manage-  
 17                   ment or water supply; and

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

20                           (i) the Federal Water Pollution Con-  
 21                           trol Act (33 U.S.C. 1251 et seq.); and

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

24           (2) SCOPE.—The demonstration program shall  
 25           consist of 10 projects per year, to be carried out in

1 municipalities selected by the Administrator under  
 2 subsection (b).

3 ~~(b) SELECTION OF MUNICIPALITIES.—~~

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

8 ~~(A) is developed in coordination with—~~

9 ~~(i) the agency of the State having ju-~~  
 10 ~~risdiction over water quality or water sup-~~  
 11 ~~ply matters; and~~

12 ~~(ii) interested stakeholders;~~

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

15 ~~(C) includes a strategy under which the~~  
 16 ~~municipality, through participation in the dem-~~  
 17 ~~onstration program, could effectively—~~

18 ~~(i) address those problems; and~~

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

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

23 ~~(II) are mandated under—~~

1                   (aa) the Federal Water Pol-  
 2                   lution Control Act (33 U.S.C.  
 3                   1251 et seq.); and

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

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

9                   (2) TYPES OF PROJECTS.—In carrying out the  
 10                  demonstration program, the Administrator may se-  
 11                  lect projects relating to such matters as—

12                   (A) excessive nutrient growth;

13                   (B) urban or rural pressure;

14                   (C) a lack of an alternative water supply;

15                   (D) difficulties in water conservation and  
 16                   efficiency;

17                   (E) a lack of support tools and tech-  
 18                   nologies to rehabilitate and replace water sup-  
 19                   plies;

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

22                   (G) nonpoint source water pollution;

23                   (H) sanitary overflows;

24                   (I) combined sewer overflows;



1                   ~~(J)~~ problems with naturally-occurring con-  
 2                   stituents of concern; or

3                   ~~(K)~~ problems with erosion and excess sedi-  
 4                   ment.

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

8                   (A) ensure, to the maximum extent  
 9                   practicable—

10                   (i) the inclusion in the demonstration  
 11                   program of a variety of projects with re-  
 12                   spect to—

13                               (I) geographic distribution;

14                               (II) innovative technologies used  
 15                   for the projects; and

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

20                   (ii) that each category of project de-  
 21                   scribed in paragraph (2) is adequately rep-  
 22                   resented;

23                   (B) give higher priority to projects that—

24                               (i) address multiple problems; and

25                               (ii) are regionally applicable;

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

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

(4) COST SHARING.—

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

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

(c) REPORTS.—

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

1           (2) **REPORTS TO CONGRESS.**—Not later than 2  
 2       years after the date of enactment of this Act, and  
 3       every 2 years thereafter, the Administrator shall  
 4       compile, and submit to the Committee on Environ-  
 5       ment and Public Works of the Senate, and the Com-  
 6       mittee on Transportation and Infrastructure and the  
 7       Committee on Energy and Commerce of the House  
 8       of Representatives, a report that describes the status  
 9       and results of the demonstration program.

10       (d) **INCORPORATION OF RESULTS AND INFORMA-**  
 11 **TION.**—To the maximum extent practicable, the Adminis-  
 12 trator shall incorporate the results of, and information ob-  
 13 tained from, successful projects under this section into  
 14 programs administered by the Administrator.

15       (e) **AUTHORIZATION OF APPROPRIATIONS.**—There is  
 16 authorized to be appropriated to carry out this section  
 17 \$20,000,000 for each of fiscal years 2003 through 2007.

18 **SEC. 303. RATE STUDY.**

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

25       (b) **REQUIRED ELEMENTS.**—

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

2                   (A) determine whether public water system  
3           and treatment works rates for communities in-  
4           cluded in the study adequately address the cost  
5           of service, including funds necessary to replace  
6           infrastructure;

7                   (B) identify the manner in which the pub-  
8           lic water system and treatment works rates  
9           were determined;

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

12                  (D)(i) survey existing practices for estab-  
13           lishing public water system and treatment  
14           works rates; and

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

18                  (E) recommend a set of best industry prac-  
19           tices for public water systems and treatment  
20           works for use in establishing a rate structure  
21           that—

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

1                   (ii) takes into consideration the needs  
2                   of disadvantaged individuals and commu-  
3                   nities.

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

6                   (A) identify existing standards for afford-  
7                   ability;

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

10                  (C) determine the manner in which afford-  
11                  ability varies with respect to communities of  
12                  different sizes and in different regions; and

13                  (D) determine the extent to which afford-  
14                  ability affects the decision of a community to  
15                  increase public water system and treatment  
16                  works rates (including the decision relating to  
17                  the percentage by which those rates should be  
18                  increased).

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

21                   (A) survey a cross-section of States rep-  
22                   resenting different sizes, demographics, and  
23                   geographical regions;

24                   (B) describe, for each State described in  
25                   subparagraph (A), the definition of “disadvan-

1           tagged community”<sup>2</sup> used in the State in carrying  
 2           out projects and activities under the Safe  
 3           Drinking Water Act (42 U.S.C. 300f et seq.);

4           (C) review other means of identifying the  
 5           meaning of the term “disadvantaged”, as that  
 6           term applies to communities;

7           (D) determine which factors and character-  
 8           istics are required for a community to be con-  
 9           sidered “disadvantaged”; and

10          (E) evaluate the degree to which factors  
 11          such as a reduction in the tax base over a pe-  
 12          riod of time, a reduction in population, the loss  
 13          of an industrial base, and the existence of areas  
 14          of concentrated poverty are taken into account  
 15          in determining whether a community is a dis-  
 16          advantaged community.

17          (c) SELECTION OF COMMUNITIES.—The National  
 18          Academy of Sciences shall select communities, the public  
 19          water system and treatment works rate structures of  
 20          which are to be studied under this section, that include  
 21          a cross section of communities representing various popu-  
 22          lations, income levels, demographics, and geographical re-  
 23          gions.

24          (d) REPORT TO CONGRESS.—On completion of the  
 25          study under this section, the National Academy of

1 Sciences shall submit to Congress a report that describes  
 2 the results of the study.

3 ~~(c) AUTHORIZATION OF APPROPRIATIONS.—There is~~  
 4 ~~authorized to be appropriated to carry out this section~~  
 5 ~~\$1,000,000 for each of fiscal years 2003 and 2004.~~

6 **SEC. 304. EFFECTS ON POLICIES AND RIGHTS.**

7 ~~(a) IN GENERAL.—Nothing in this Act—~~

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

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

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

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

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

24 ~~(2) Congress delegates to each State the au-~~  
 25 ~~thority to regulate water of the State, including the~~

1 authority to regulate water in interstate commerce  
 2 (including regulation of usufructuary rights, trade,  
 3 and transportation); and

4 ~~(3) the United States, and any agency or officer~~  
 5 ~~on behalf of the United States, may exercise man-~~  
 6 ~~agement and control over water in a State only in~~  
 7 ~~compliance with the laws of the State in which the~~  
 8 ~~water is located.~~

## 9 **TITLE IV—WATER RESOURCE** 10 **PLANNING**

### 11 **SEC. 401. FINDINGS.**

12 Congress finds that—

13 ~~(1) there is ever-growing demand and competi-~~  
 14 ~~tion for water from many segments of society, in-~~  
 15 ~~cluding municipal users, agriculture, and critical eco-~~  
 16 ~~systems;~~

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

20 ~~(3) because sources of water do not follow polit-~~  
 21 ~~ical boundaries—~~

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

24 ~~(B) it is more difficult to take action—~~



1 (i) to monitor the state of water re-  
2 sources;

3 (ii) to prepare for water shortages or  
4 surpluses;

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

7 (iv) to respond to emergency situa-  
8 tions;

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

10 (i) impact public health;

11 (ii) limit economic and agricultural devel-  
12 opment; and

13 (iii) damage ecosystems; and

14 ~~(B)~~ the United States often suffers serious eco-  
15 nomic and environmental losses from water short-  
16 ages or surpluses;

17 ~~(5)~~ there is no national policy to ensure an inte-  
18 grated and coordinated Federal strategy to monitor  
19 the state of the water resources of the United  
20 States;

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

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

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

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

6   **SEC. 402. DEFINITION OF SECRETARY.**

7           In this title, the term “Secretary” means the Sec-  
8           retary of the Interior, acting through the Director of the  
9           United States Geological Survey.

10   **SEC. 403. ACTIONS.**

11           (a) ASSESSMENT.—

12               (1) IN GENERAL.—Not later than 2 years after  
13           the date of enactment of this Act, the Secretary  
14           shall conduct an assessment of the state of water re-  
15           sources in the United States.

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

18                   (A) identify areas in the United States  
19           that are at significant risk for water shortages  
20           or water surpluses, as those shortages or sur-  
21           pluses pertain to support of human or eco-  
22           system needs, in—

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

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

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

5                   (B) identify areas in each category de-  
6                   scribed in subparagraph (A) in which water re-  
7                   source issues cross political boundaries.

8                   (3) REPORT.—On completion of the assess-  
9                   ment, the Secretary shall submit to Congress a re-  
10                  port that describes the results of the assessment.

11               (b) WATER RESOURCE RESEARCH PRIORITIES.—

12               (1) IN GENERAL.—The Secretary shall coordi-  
13               nate a process among Federal agencies (including  
14               the Environmental Protection Agency) to develop  
15               and publish, not later than 1 year after the date of  
16               enactment of this Act, a list of water resource re-  
17               search priorities that focuses on—

18               (A) monitoring; and

19               (B) improving the quality of the informa-  
20               tion available to State, tribal, and local water  
21               resource managers.

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

1        ~~(c) INFORMATION DELIVERY SYSTEM.—~~

2            ~~(1) IN GENERAL.—~~The Secretary shall coordi-  
 3        nate a process to develop an effective information  
 4        delivery system to communicate information de-  
 5        scribed in paragraph ~~(2)~~ to—

6            ~~(A)~~ decisionmakers at the Federal, re-  
 7        gional, State, tribal, and local levels;

8            ~~(B)~~ the private sector; and

9            ~~(C)~~ the general public.

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

12        ~~(A)~~ the results of the national water re-  
 13        source assessment;

14        ~~(B)~~ a summary of the Federal water re-  
 15        search priorities developed under subsection ~~(b)~~;

16        ~~(C)~~ near real-time data and other informa-  
 17        tion on water shortages and surpluses;

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

21        ~~(E)~~ streamlined procedures for States and  
 22        localities to interact with and obtain assistance  
 23        from Federal agencies that perform water re-  
 24        source functions; and

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

3 **SEC. 404. REPORT TO CONGRESS.**

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

8 **SEC. 405. AUTHORIZATION OF APPROPRIATIONS.**

9           There is authorized to be appropriated to the Sec-  
10 retary to carry out this title \$3,000,000 for each of fiscal  
11 years 2003 through 2007, to remain available until ex-  
12 pended.

13 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

14           (a) *SHORT TITLE*.—*This Act may be cited as the*  
15 *“Water Investment Act of 2002”.*

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

*Sec. 1. Short title; table of contents.*

*Sec. 2. Purposes.*

**TITLE I—FEDERAL WATER POLLUTION CONTROL ACT  
MODIFICATIONS**

*Sec. 101. Definitions.*

*Sec. 102. Funding for Indian programs.*

*Sec. 103. Requirements for receipt of funds.*

*Sec. 104. Sewer overflow control grants.*

**TITLE II—SAFE DRINKING WATER ACT MODIFICATIONS**

**SUBTITLE A—STATE REVOLVING LOAN FUND PROJECTS AND ACTIVITIES**

*Sec. 201. New York City watershed protection program.*

*Sec. 202. Labor standards.*

*Sec. 203. Planning, design, and preconstruction costs.*

*Sec. 204. State Revolving Loan Fund.*

- Sec. 205. Additional subsidization.*  
*Sec. 206. Private utilities.*  
*Sec. 207. Technical assistance for small systems.*  
*Sec. 208. Authorization of appropriations.*

*SUBTITLE B—SMALL PUBLIC WATER SYSTEM ASSISTANCE*

- Sec. 211. Short title.*  
*Sec. 212. Findings and purpose.*  
*Sec. 213. Small public water system assistance program.*

*TITLE III—INNOVATIONS IN FUND AND WATER QUALITY  
MANAGEMENT*

- Sec. 301. Definitions.*  
*Sec. 302. Demonstration grant program for water quality enhancement and management.*  
*Sec. 303. Rate study.*  
*Sec. 304. State revolving fund review process.*  
*Sec. 305. Transfer of funds.*

*TITLE IV—WATER RESOURCE PLANNING*

- Sec. 401. Findings.*  
*Sec. 402. Definition of Secretary.*  
*Sec. 403. Actions.*  
*Sec. 404. Report to Congress.*  
*Sec. 405. Authorization of appropriations.*

*TITLE V—MISCELLANEOUS*

- Sec. 501. Nutrient control technology grant program.*  
*Sec. 502. Effects on policies and rights.*  
*Sec. 503. Effective date.*

**1 SEC. 2. PURPOSES.**

**2       *The purposes of this Act are—***

**3               *(1) to improve the quality of the water, and the***  
**4               *safety of the drinking water, in the United States***  
**5               *through the repair and improvement of critical water***  
**6               *infrastructure;***

**7               *(2) to modernize State water pollution control***  
**8               *revolving funds and the allocation for those funds to***  
**9               *ensure that the funds distributed reflect water quality***  
**10              *needs;***

1           (3) to maximize use of Federal funds and en-  
2           courage maximum efficiency for States and localities;

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

5           (5) to ensure that the Federal Government is  
6           performing an appropriate role in analyzing regional  
7           and national water supply trends; and

8           (6) to facilitate nontraditional projects (such as  
9           projects relating to land conservation, low-impact de-  
10          velopment technologies, beneficial reuse of brownfields,  
11          watershed management actions, decentralized waste-  
12          water treatment innovations, and other nonpoint best  
13          management practices) the primary purpose of which  
14          is the protection, preservation, or enhancement of  
15          water quality.

16 ***TITLE I—FEDERAL WATER POL-***  
17 ***LUTION CONTROL ACT MODI-***  
18 ***FICATIONS***

19 ***SEC. 101. DEFINITIONS.***

20           Section 502 of the Federal Water Pollution Control Act  
21           (33 U.S.C. 1362) is amended by adding at the end the fol-  
22           lowing:

23           “(24) *DISADVANTAGED COMMUNITY.*—The term  
24           ‘disadvantaged community’ means a community or  
25           entity that meets affordability criteria established,

1       *after public review and comment, by the State in*  
 2       *which the community or entity is located.*

3               “(25) *DISADVANTAGED USER.*—*The term ‘dis-*  
 4       *advantaged user’ means a person that meets afford-*  
 5       *ability criteria established, after public review and*  
 6       *comment, by the State in which the person resides.*

7               “(26) *SMALL TREATMENT WORKS.*—*The term*  
 8       *‘small treatment works’ means a treatment works (as*  
 9       *defined in section 212) serving a population of 10,000*  
 10       *or fewer individuals.”.*

11   **SEC. 102. FUNDING FOR INDIAN PROGRAMS.**

12       *Section 518 of the Federal Water Pollution Control Act*  
 13       *(33 U.S.C. 1377) is amended by striking subsection (c) and*  
 14       *inserting the following:*

15       “(c) *RESERVATION OF FUNDS.*—

16               “(1) *IN GENERAL.*—*For fiscal year 1987 and*  
 17       *each fiscal year thereafter, the Administrator shall re-*  
 18       *serve, before allotments to the States under section*  
 19       *604(a), not less than 0.5 percent nor more than 1.5*  
 20       *percent of the funds made available under section*  
 21       *607.*

22               “(2) *USE OF FUNDS.*—*Funds reserved under this*  
 23       *subsection shall be available only for grants for the*  
 24       *development of waste treatment management plans,*



1        *and for the construction of sewage treatment works,*  
 2        *to serve—*

3                *“(A) Indian tribes;*

4                *“(B) former Indian reservations in Okla-*  
 5                *homa (as determined by the Secretary of the In-*  
 6                *terior); and*

7                *“(C) Native villages (as defined in section 3*  
 8                *of the Alaska Native Claims Settlement Act (43*  
 9                *U.S.C. 1602)).”.*

10    **SEC. 103. REQUIREMENTS FOR RECEIPT OF FUNDS.**

11        *(a) GRANTS TO STATES FOR ESTABLISHMENT OF RE-*  
 12        *VOLVING FUNDS.—Section 601(a) of the Federal Water Pol-*  
 13        *lution Control Act (33 U.S.C. 1381(a)) is amended by strik-*  
 14        *ing “for providing assistance (1)” and all that follows and*  
 15        *inserting the following: “for providing assistance for eligible*  
 16        *projects in accordance with section 603(c).”.*

17        *(b) REQUIREMENTS FOR CONSTRUCTION OF TREAT-*  
 18        *MENT WORKS.—*

19                *(1) IN GENERAL.—Section 602(b) of the Federal*  
 20        *Water Pollution Control Act (33 U.S.C. 1382(b)) is*  
 21        *amended by striking paragraph (6) and inserting the*  
 22        *following:*

23                *“(6) treatment works eligible under section*  
 24        *603(c)(1) that are constructed, in whole or in part,*  
 25        *using funds made available by a State water pollu-*

1        *tion control revolving loan fund under this title and*  
 2        *section 205(m) will meet the requirements of sections*  
 3        *211, 511(c)(1), and 513 in the same manner as treat-*  
 4        *ment works constructed using assistance provided*  
 5        *under title II;”.*

6                (2) *CONFORMING AMENDMENTS.—Section 211 of*  
 7        *the Federal Water Pollution Control Act (33 U.S.C.*  
 8        *1291) is amended—*

9                        (A) *by striking the section heading and all*  
 10                      *that follows through subsection (a) and inserting*  
 11                      *the following:*

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

13                “(a) *IN GENERAL.—No grant shall be made for a sew-*  
 14        *age collection system under this title unless the grant—*

15                      “(1) *is for replacement or major rehabilitation of*  
 16        *a sewage collection system that is—*

17                      “(A) *in existence as of February 15, 2002;*  
 18                      *and*

19                      “(B) *necessary to the total integrity and*  
 20                      *performance of the waste treatment works serv-*  
 21                      *ing the community served by the collection sys-*  
 22                      *tem; or*

23                      “(2) *is for a new sewage collection system for a*  
 24        *community that—*

1                   “(A) is in existence as of February 15,  
2                   2002; and

3                   “(B) has sufficient existing or planned ca-  
4                   pacity to treat collected sewage.”;

5                   (B) in subsection (b), by striking “(b) If”  
6                   and inserting the following:

7                   “(b) *POPULATION DENSITY.—If*”; and

8                   (C) in subsection (c), by striking “(c) No”  
9                   and inserting the following:

10                  “(c) *PROHIBITION ON GRANTS.—No*”.

11                  (c) *PROJECTS ELIGIBLE FOR ASSISTANCE.—Section*  
12 *603 of the Federal Water Pollution Control Act (33 U.S.C.*  
13 *1383) is amended by striking subsection (c) and inserting*  
14 *the following:*

15                  “(c) *PROJECTS ELIGIBLE FOR ASSISTANCE.—*

16                   “(1) *IN GENERAL.—Funds in each State water*  
17 *pollution control revolving fund shall be used only*  
18 *for—*

19                   “(A) *providing financial assistance to a*  
20 *municipality, intermunicipal, interstate, or*  
21 *State agency, or private utility that principally*  
22 *treats municipal wastewater or domestic sewage,*  
23 *for construction (including costs for planning,*  
24 *design, associated preconstruction, and necessary*  
25 *activities for siting the facility and related ele-*

1        *ments) of treatment works (as defined in section*  
2        *212);*

3                *“(B) implementation of a management pro-*  
4        *gram established under section 319;*

5                *“(C) development and implementation of a*  
6        *conservation and management plan under sec-*  
7        *tion 320;*

8                *“(D) water conservation projects or activi-*  
9        *ties the primary purpose of which is the protec-*  
10       *tion, preservation, or enhancement of water qual-*  
11       *ity;*

12               *“(E) reuse, reclamation, or recycling*  
13       *projects the primary purpose of which is the pro-*  
14       *tection, preservation, or enhancement of water*  
15       *quality;*

16               *“(F) water conservation improvement*  
17       *projects the primary purpose of which (as deter-*  
18       *mined by the State) is the protection, preserva-*  
19       *tion, or enhancement of water quality, including*  
20       *through—*

21                *“(i) piping or lining of an irrigation*  
22                *canal;*

23                *“(ii) recovery or recycling of waste-*  
24                *water or tailwater;*

25                *“(iii) irrigation scheduling;*

1                   “(iv) measurement or metering of  
2                   water use; or

3                   “(v) improvement of on-field irrigation  
4                   efficiency;

5                   “(G) projects to increase the security of  
6                   wastewater treatment works (excluding any ex-  
7                   penditure for operations or maintenance); or

8                   “(H) measures to control municipal  
9                   stormwater, the primary purpose of which is the  
10                  preservation, protection, or enhancement of  
11                  water quality.

12                  “(2) MAINTENANCE OF FUND.—

13                  “(A) IN GENERAL.—Each fund shall be es-  
14                  tablished, maintained, and credited with repay-  
15                  ments.

16                  “(B) AVAILABILITY.—Any balances in a  
17                  fund shall be available in perpetuity for pro-  
18                  viding financial assistance described in para-  
19                  graph (1).

20                  “(3) APPROACHES.—A project eligible under  
21                  paragraph (1) to receive assistance from a State  
22                  water pollution control revolving fund under this title  
23                  may include a project that uses 1 or more nontradi-  
24                  tional approaches (such as land conservation, low-im-  
25                  pact development technologies, beneficial reuse of

1        *brownfields, watershed management actions, decen-*  
 2        *tralized wastewater treatment innovations, and other*  
 3        *nonpoint best management practices), if the primary*  
 4        *purpose of the project is the preservation, protection,*  
 5        *or enhancement of water quality.”.*

6        *(d) EXTENSION OF LOANS; TYPES OF ASSISTANCE.—*  
 7        *Section 603(d) of the Federal Water Pollution Control Act*  
 8        *(33 U.S.C. 1383(d)) is amended—*

9                *(1) in paragraph (1)—*

10                        *(A) in subparagraph (A), by striking “, at*  
 11                        *terms not to exceed 20 years”;*

12                        *(B) by striking subparagraph (B) and in-*  
 13                        *serting the following:*

14                                *“(B)(i)(I) annual principal and interest*  
 15                                *payments will commence not later than 1 year*  
 16                                *after the date of completion of any project for*  
 17                                *which the loan was provided;*

18                                *“(II) each loan will be fully amortized not*  
 19                                *later than 30 years after the date of completion*  
 20                                *of the project for which the loan is provided; and*

21                                *“(III) the term of each loan will not exceed*  
 22                                *the expected design life of the project for which*  
 23                                *the loan was provided; and*

1           “(ii) in the case of a loan provided to a dis-  
 2           advantaged community, a State may provide an  
 3           extended term for the loan if the extended term—

4           “(I) terminates not later than the date  
 5           that is 40 years after the date of completion  
 6           of the project for which the loan was pro-  
 7           vided; and

8           “(II) does not exceed the expected de-  
 9           sign life of the project;”;

10          (C) in subparagraph (C), by inserting “, or,  
 11          in the case of a privately owned treatment works,  
 12          demonstrate that adequate security for the loan  
 13          exists,” after “revenue”; and

14          (D) in subparagraph (D), by inserting  
 15          “State water pollution control revolving loan”  
 16          before “fund”;

17          (2) in paragraph (6), by striking “and” at the  
 18          end;

19          (3) by redesignating paragraph (7) as para-  
 20          graph (11);

21          (4) by inserting after paragraph (6) the fol-  
 22          lowing:

23               “(7) subject to subsection (e)(2), by a State to  
 24               provide additional subsidization (including forgive-  
 25               ness of principal)—

1           “(A) to 1 or more treatment works, for use  
 2           in developing capacity described in subsection  
 3           (i)(2)(A) in accordance with subsection (i); or

4           “(B) for a project described in subsection  
 5           (c)(3);

6           “(8) subject to subsection (e)(2), by a State to  
 7           provide additional subsidization (including forgive-  
 8           ness of principal) to 1 or more treatment works for  
 9           a purpose other than a purpose specified in para-  
 10          graph (7) or (9), except that—

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

18           “(B) notwithstanding section 204(b)(1)—

19           “(i) as a condition of receiving addi-  
 20           tional subsidization under this paragraph,  
 21           each recipient of assistance shall dem-  
 22           onstrate and document to the State that ad-  
 23           ditional subsidization provided under this  
 24           paragraph will be directed, to the maximum  
 25           extent practicable, through the user charge



1           *rate system or a similar program, to dis-*  
 2           *advantaged users within the residential user*  
 3           *class of the community in which the treat-*  
 4           *ment works is located; and*

5           *“(ii) the Administrator may provide*  
 6           *information to assist States in identifying*  
 7           *disadvantaged users described in clause (i);*  
 8           *and*

9           *“(C) a disadvantaged user located within a*  
 10          *community that receives assistance as a dis-*  
 11          *advantaged community under paragraph (9)*  
 12          *shall not be eligible for assistance under this*  
 13          *paragraph;*

14          *“(9) subject to subsection (e)(2), by the State to*  
 15          *provide additional subsidization (including forgive-*  
 16          *ness of principal) to a disadvantaged community, or*  
 17          *to a community or entity that the State expects to be-*  
 18          *come a disadvantaged community as the result of a*  
 19          *proposed project, that receives a loan from the State*  
 20          *under this title;*

21          *“(10) to provide to small treatment works (in an*  
 22          *amount not to exceed, in the aggregate, 2 percent of*  
 23          *the amount of all capitalization grants received by*  
 24          *the State for the fiscal year under this title)—*

25          *“(A) technical and planning assistance; and*

1 “(B) assistance in—

2 “(i) financial management;

3 “(ii) user fee analysis;

4 “(iii) budgeting;

5 “(iv) capital improvement planning;

6 “(v) repair scheduling; and

7 “(vi) other similar activities relating

8 to water quality improvement; and”; and

9 (5) in paragraph (11) (as redesignated by para-  
10 graph (3)), by striking “that such amounts shall not  
11 exceed 4” and inserting “that, beginning in fiscal  
12 year 2003, those amounts shall not exceed 6”.

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

15 (1) by striking “(e)” and all that follows through  
16 “If a State” and inserting the following:

17 “(e) LIMITATIONS.—

18 “(1) PREVENTION OF DOUBLE BENEFITS.—If a  
19 State”; and

20 (2) by adding at the end the following:

21 “(2) TOTAL AMOUNT OF SUBSIDIES.—For each  
22 fiscal year, the total amount used by a State under  
23 paragraphs (7), (8), and (9) of subsection (d) may  
24 not exceed 30 percent of the amount of all capitaliza-  
25 tion grants received by the State for the fiscal year.”.

1       (f) *CONSISTENCY WITH PLANNING REQUIREMENTS.*—  
 2       Section 603(f) of the Federal Water Pollution Control Act  
 3       (33 U.S.C. 1383(f)) is amended—

4               (1) by striking “A State may” and inserting the  
 5       following:

6               “(1) *IN GENERAL.*—A State may”;

7               (2) by striking “320 of this Act.” and inserting  
 8       “320.”; and

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

10              “(2) *COMMUNITY DEVELOPMENT.*—As a condi-  
 11       tion of receiving assistance under this section, a re-  
 12       cipient shall demonstrate and document to the State  
 13       that the recipient, in using the assistance, will consult  
 14       and coordinate with, as appropriate, agencies with  
 15       authority to develop—

16              “(A) local land use plans;

17              “(B) regional transportation improvement  
 18       and long-range transportation plans; and

19              “(C) State, regional, and municipal water-  
 20       shed plans.”.

21       (g) *PRIORITY SYSTEM REQUIREMENT.*—Section 603 of  
 22       the Federal Water Pollution Control Act (33 U.S.C. 1383)  
 23       is amended by striking subsection (g) and inserting the fol-  
 24       lowing:

25              “(g) *PRIORITY SYSTEM REQUIREMENT.*—

1           “(1) *DEFINITION OF STATE AGENCY.*—*In this*  
 2           *subsection, the term ‘State agency’ means the agency*  
 3           *of a State having jurisdiction over water quality*  
 4           *management (including the establishment of water*  
 5           *quality standards).*

6           “(2) *DEVELOPMENT.*—

7                 “(A) *IN GENERAL.*—*Notwithstanding sec-*  
 8                 *tion 216, each State agency shall develop and pe-*  
 9                 *riodically update a project priority system for*  
 10                *use in prioritizing projects that are eligible to re-*  
 11                *ceive funding from the water pollution control*  
 12                *revolving fund of the State in accordance with*  
 13                *subsection (c).*

14               “(B) *REQUIREMENTS.*—*In developing the*  
 15                *project priority system, a State agency shall—*

16                         “(i) *take into consideration all chem-*  
 17                         *ical, physical, and biological data (includ-*  
 18                         *ing data relating to subsections (d) and (e)*  
 19                         *of section 303 and section 305(b)) that*  
 20                         *are—*

21                                 “(I) *reasonably available to the*  
 22                                 *State from public and private sources;*  
 23                                 *and*

24                                 “(II) *determined by the State to*  
 25                                 *be of sufficient quality; and*

1                   “(ii) provide for public notice and op-  
2                   portunity for comment.

3                   “(3) SUMMARY OF PROJECTS.—

4                   “(A) IN GENERAL.—Each State agency,  
5                   after public notice and opportunity for comment,  
6                   shall biennially publish a description, in sum-  
7                   mary form, of projects in the State that are eligi-  
8                   ble for assistance under this title.

9                   “(B) INCLUSIONS.—The summary under  
10                  subparagraph (A) shall include—

11                  “(i) the priority assigned to each  
12                  project under the priority system of the  
13                  State developed under paragraph (2); and

14                  “(ii) the funding schedule for each  
15                  project, to the extent that such information  
16                  is available.

17                  “(4) STATEMENT OF POLICY.—It is the policy of  
18                  the United States that projects in a State that are  
19                  carried out using assistance provided under this title  
20                  shall be funded, to the maximum extent practicable,  
21                  through a project priority system of the State that, as  
22                  determined by the State, is designed to achieve opti-  
23                  mum water quality management, consistent with the  
24                  public health and water quality goals and require-  
25                  ments of this Act.”.

1        *(h) ADDITIONAL REQUIREMENTS FOR WATER POLLU-*  
 2        *TION CONTROL REVOLVING FUNDS.—Section 603 of the*  
 3        *Federal Water Pollution Control Act (33 U.S.C. 1383) is*  
 4        *amended by adding at the end the following:*

5        *“(i) TECHNICAL, MANAGERIAL, AND FINANCIAL CA-*  
 6        *PACITY FOR OPTIMAL PERFORMANCE.—*

7                *“(1) DEFINITION OF STATE AGENCY.—In this*  
 8        *section, the term ‘State agency’ has the meaning given*  
 9        *the term in subsection (g)(1).*

10        *“(2) STRATEGY.—*

11                *“(A) IN GENERAL.—Not later than 3 years*  
 12        *after the date of enactment of this subsection,*  
 13        *each State agency shall develop and implement*  
 14        *a strategy to assist treatment works in the State*  
 15        *receiving assistance under this title in—*

16                *“(i) attaining and maintaining tech-*  
 17        *nical, managerial, operations, maintenance,*  
 18        *and financial capacity; and*

19                *“(ii) meeting and sustaining compli-*  
 20        *ance with applicable Federal and State*  
 21        *laws.*

22                *“(B) REQUIREMENTS.—In developing the*  
 23        *strategy under this paragraph, the State shall*  
 24        *consider, solicit public comment on, and include*  
 25        *in the strategy a description of, the manner in*

1       *which the State intends to use the authorities*  
 2       *and resources of the State to assist treatment*  
 3       *works in attaining and maintaining the capac-*  
 4       *ity described in subparagraph (A)(i).*

5       “(3) *CONDITION FOR RECEIPT OF ASSISTANCE.—*

6               “(A) *IN GENERAL.—Except as provided in*  
 7       *subparagraph (B) and subsection (k), beginning*  
 8       *on the date that is 4 years after the date of en-*  
 9       *actment of this subsection, each treatment works*  
 10       *shall, as a condition of receiving assistance*  
 11       *under this title, demonstrate and document to*  
 12       *the State that provides the assistance adequate*  
 13       *capacity described in paragraph (2)(A)(i), in-*  
 14       *cluding, for each treatment works that receives,*  
 15       *in the aggregate, more than \$500,000 under this*  
 16       *title for any fiscal year, the establishment and*  
 17       *implementation by the treatment works of an*  
 18       *asset management plan (for which the Adminis-*  
 19       *trator may publish information to assist States*  
 20       *in determining required content) that—*

21               “(i) *conforms to generally accepted in-*  
 22               *dustry practices; and*

23               “(ii) *includes—*

1                   “(I) an inventory of existing as-  
2                   sets (including an estimate of the use-  
3                   ful life of those assets); and

4                   “(II) an optimal schedule of oper-  
5                   ations, maintenance, and capital in-  
6                   vestment required to meet and sustain  
7                   performance objectives for the treat-  
8                   ment works established in accordance  
9                   with this Act and other applicable Fed-  
10                  eral and State laws over the useful life  
11                  of the treatment works.

12               “(B) *EXCEPTION.*—Notwithstanding sub-  
13               paragraph (A), a treatment works may receive  
14               assistance under this title if the State determines  
15               that the assistance would enable the treatment  
16               works to attain adequate capacity described in  
17               paragraph (2)(A)(i).

18               “(C) *NONCOMPLIANCE.*—

19               “(i) *IN GENERAL.*—Except as provided  
20               in clause (ii), no assistance, except for as-  
21               sistance that is to be used by a treatment  
22               works solely for planning, design, or secu-  
23               rity purposes, shall be provided under this  
24               title to a treatment works that is in signifi-  
25               cant noncompliance with any requirement



1           *of this Act, unless the treatment works is in*  
 2           *compliance with, or has entered into, an en-*  
 3           *forceable administrative or judicial order to*  
 4           *effect compliance with those requirements.*

5           “(ii) *EXCEPTION.—A treatment works*  
 6           *that is determined under clause (i) to be in*  
 7           *significant noncompliance with the require-*  
 8           *ments described in clause (i) may receive*  
 9           *assistance under this title if the State pro-*  
 10          *viding the assistance determines that the use*  
 11          *of assistance would enable the treatment*  
 12          *works to take corrective action sufficient to*  
 13          *remedy the violations on which the deter-*  
 14          *mination of significant noncompliance was*  
 15          *based.*

16          “(j) *RESTRUCTURING.—Notwithstanding section*  
 17          *204(b)(1), except as provided in subsection (k), as a condi-*  
 18          *tion of receiving assistance under this section, a treatment*  
 19          *works shall demonstrate and document to the State that the*  
 20          *treatment works—*

21               “(1) *has considered—*

22                   “(A) *consolidating management functions*  
 23                   *or ownership with another facility;*

24                   “(B) *forming cooperative partnerships; and*

1           “(C) *using methodologies or technologies*  
 2           *that may be more environmentally sensitive; and*

3           “(2) *if the treatment works receives, in the aggregate, more than \$500,000 under this title for any fiscal year, has in effect a plan to achieve, within a reasonable period of time, a rate structure that, to the*  
 4           *maximum extent practicable—*

5           “(A) *reflects the actual cost of service provided by the treatment works; and*

6           “(B) *addresses capital replacement funds;*  
 7           *and*

8           “(3) *has in effect, or will have in effect on completion of the project, an asset management plan described in subsection (i)(3)(A).*

9           “(k) *EXEMPTIONS FOR ASSISTANCE.—Subsections (i)(3) and (j) shall not apply to assistance provided under this title that is to be used by a treatment works solely for—*

10           “(1) *planning;*

11           “(2) *design;*

12           “(3) *security measures that do not result in significant capital expenditures (as defined by a State in accordance with guidance provided by the Administrator); or*

13           “(4) *preconstruction activities.*

14           “(l) *TECHNICAL ASSISTANCE.—*

1           “(1) *DEFINITION OF QUALIFIED NONPROFIT*  
 2           *TECHNICAL ASSISTANCE PROVIDER.*—*In this sub-*  
 3           *section, the term ‘qualified nonprofit technical assist-*  
 4           *ance provider’ means a nonprofit entity that provides*  
 5           *technical assistance (such as circuit-rider programs,*  
 6           *training, and preliminary engineering evaluations) to*  
 7           *treatment works that—*

8                     “(A) *serve not more than 3,300 users; and*

9                     “(B) *are located in a rural area.*

10           “(2) *GRANT PROGRAM.*—

11                     “(A) *IN GENERAL.*—*The Administrator*  
 12                     *may make grants to a qualified nonprofit tech-*  
 13                     *nical assistance provider that is qualified to pro-*  
 14                     *vide technical assistance on a broad range of ap-*  
 15                     *proaches described in subsection (c) for use in as-*  
 16                     *sisting small treatment works in planning, devel-*  
 17                     *oping, and obtaining financing for eligible*  
 18                     *projects described in subsection (c).*

19                     “(B) *DISTRIBUTION OF GRANTS.*—*In car-*  
 20                     *rying out this subsection, the Administrator shall*  
 21                     *ensure, to the maximum extent practicable, that*  
 22                     *technical assistance provided using funds from a*  
 23                     *grant under subparagraph (A) is made available*  
 24                     *in each State.*

1           “(C) *CONSULTATION*.—As a condition of re-  
 2           ceiving a grant under this subsection, a qualified  
 3           nonprofit technical assistance provider shall con-  
 4           sult with each State in which grant funds are to  
 5           be expended or otherwise made available before  
 6           the grant funds are expended or made available  
 7           in the State.

8           “(3) *AUTHORIZATION OF APPROPRIATIONS*.—  
 9           There is authorized to be appropriated to carry out  
 10          this subsection \$7,000,000 for each of fiscal years  
 11          2003 through 2007.”.

12          “(i) *ALLOTMENT OF FUNDS*.—Section 604 of the Fed-  
 13          eral Water Pollution Control Act (33 U.S.C. 1384) is  
 14          amended by striking subsection (a) and inserting the fol-  
 15          lowing:

16          “(a) *ALLOCATION FORMULA*.—

17               “(1) *DEFINITIONS*.—In this subsection:

18                   “(A) *EXISTING FORMULA*.—The term ‘exist-  
 19                   ing formula’ means a formula for the allotment  
 20                   of funds made available to carry out this section  
 21                   for a fiscal year to States in accordance with  
 22                   section 205(c)(3).

23                   “(B) *NEEDS FORMULA*.—The term ‘needs  
 24                   formula’ means a formula for the allotment of

1        *funds made available to carry out this section*  
 2        *for a fiscal year to States—*

3                *“(i) in amounts determined by the Ad-*  
 4                *ministrator based on the ratio that—*

5                        *“(I) the needs of a State described*  
 6                        *in categories I through VI of the most*  
 7                        *recent needs survey conducted under*  
 8                        *section 516(2); bears to*

9                        *“(II) the needs of all States de-*  
 10                        *scribed in categories I through VI of*  
 11                        *the most recent needs survey conducted*  
 12                        *under section 516(2); but*

13                        *“(ii) under which the minimum pro-*  
 14                        *portionate share of each State is 0.7 per-*  
 15                        *cent.*

16        *“(2) ALLOCATION.—*

17                        *“(A) AMOUNTS LESS THAN OR EQUAL TO*  
 18                        *\$1,350,000,000.—Except as provided in subpara-*  
 19                        *graph (B) and subject to paragraph (4), funds*  
 20                        *made available to carry out this section for a fis-*  
 21                        *cal year, not to exceed \$1,350,000,000, shall be*  
 22                        *allocated by the Administrator as follows:*

23                        *“(i) FISCAL YEAR 2003.—For fiscal*  
 24                        *year 2003—*

1                   “(I) 50 percent shall be allocated  
2                   in accordance with the existing for-  
3                   mula; and

4                   “(II) 50 percent shall be allocated  
5                   in accordance with the needs formula.

6                   “(ii) FISCAL YEAR 2004.—For fiscal  
7                   year 2004—

8                   “(I) 37.5 percent shall be allocated  
9                   in accordance with the existing for-  
10                  mula; and

11                  “(II) 62.5 percent shall be allo-  
12                  cated in accordance with the needs for-  
13                  mula.

14                  “(iii) FISCAL YEAR 2005.—For fiscal  
15                  year 2005—

16                  “(I) 25 percent shall be allocated  
17                  in accordance with the existing for-  
18                  mula; and

19                  “(II) 75 percent shall be allocated  
20                  in accordance with the needs formula.

21                  “(iv) FISCAL YEAR 2006.—For fiscal  
22                  year 2006—

23                  “(I) 12.5 percent shall be allocated  
24                  in accordance with the existing for-  
25                  mula; and

1                   “(II) 87.5 percent shall be allo-  
 2                   cated in accordance with the needs for-  
 3                   mula.

4                   “(v) FISCAL YEAR 2007.—For fiscal  
 5                   year 2007 and each fiscal year thereafter,  
 6                   100 percent shall be allocated in accordance  
 7                   with the needs formula.

8                   “(B) TRANSITION EXCEPTION.—If, for any  
 9                   fiscal year, the allocation of funds under sub-  
 10                  paragraph (A) would result in any other State’s  
 11                  receiving, for the fiscal year, an amount of funds  
 12                  under this section that is less than 80 percent or  
 13                  more than 120 percent of the amount of funds re-  
 14                  ceived by the State under this section for the pre-  
 15                  ceding fiscal year, all funds made available to  
 16                  carry out this section for the applicable year  
 17                  through fiscal year 2007 shall be allocated in ac-  
 18                  cordance with the formula described in subpara-  
 19                  graph (C).

20                  “(C) TRANSITION FORMULA.—The formula  
 21                  described in this subparagraph is a formula for  
 22                  the allotment of funds made available to carry  
 23                  out this section for a fiscal year to each State in  
 24                  an amount that, subject to section 518(c)(1) and  
 25                  paragraphs (3) and (4), is equal to the product

1       *obtained by multiplying the amount of funds*  
2       *made available to carry out this section for the*  
3       *fiscal year and the sum of—*

4               “(i)    the    product    obtained    by  
5               *multiplying—*

6                       “(I) *the percentage of funds made*  
7                       *available to carry out this section that*  
8                       *the State would receive under the needs*  
9                       *formula for the fiscal year; by*

10                      “(II) *the greatest percentage of*  
11                      *funds that—*

12                           “(aa) *could be received by the*  
13                           *State under the needs formula for*  
14                           *the fiscal year; but*

15                           “(bb) *would not result in any*  
16                           *State’s receiving, for the fiscal*  
17                           *year, an amount of funds under*  
18                           *this section that is less than 80*  
19                           *percent or more than 120 percent*  
20                           *of the amount of funds received by*  
21                           *the State under this section in the*  
22                           *preceding fiscal year; and*

23                      “(ii)    the    product    obtained    by  
24                      *multiplying—*



1                   “(I) the percentage of funds made  
 2                   available to carry out this section that  
 3                   the State would receive under the exist-  
 4                   ing formula for the fiscal year; by

5                   “(II) the percentage of funds that  
 6                   the State would receive under the exist-  
 7                   ing formula, which is equal to the dif-  
 8                   ference between—

9                   “(aa) 100 percent; and

10                   “(bb) the percentage de-  
 11                   scribed in clause (i)(II).

12                   “(D) AMOUNTS GREATER THAN  
 13                   \$1,350,000,000.—Any amount in excess of  
 14                   \$1,350,000,000 that is made available to carry  
 15                   out this section for any fiscal year shall be allo-  
 16                   cated in accordance with the needs formula.

17                   “(3) SMALL STATE PROTECTION.—

18                   “(A) IN GENERAL.—Notwithstanding any  
 19                   other provision of this subsection, the minimum  
 20                   proportionate share of a State described in sub-  
 21                   paragraph (B) shall be 1 percent.

22                   “(B) DESCRIPTION OF STATE.—A State de-  
 23                   scribed in this subparagraph is a State that—

24                   “(i) for fiscal year 2002, would receive  
 25                   under the existing formula more than 1 per-

1                   *cent of the amounts made available to carry*  
 2                   *out this section; and*

3                   “(ii) *but for the minimum propor-*  
 4                   *tionate share required under the needs for-*  
 5                   *mula, would receive for any fiscal year*  
 6                   *under paragraph (2) an allotment in an*  
 7                   *amount that is less than 0.7 percent of the*  
 8                   *total amount of funds made available to*  
 9                   *carry out this section for that fiscal year.*

10                  “(4) *TERRITORIES AND POSSESSIONS.—Of the*  
 11                  *funds made available to carry out this section for a*  
 12                  *fiscal year, a total of 0.25 percent shall be allocated*  
 13                  *to Guam, the United States Virgin Islands, American*  
 14                  *Samoa, and the Commonwealth of the Northern Mar-*  
 15                  *iana Islands, to be allocated among those territories*  
 16                  *and possessions as determined by the Administrator.*

17                  “(5) *PRIVATE UTILITIES.—If a State (or a terri-*  
 18                  *tory or possession described in paragraph (4)) elects*  
 19                  *to include the needs of private utilities in the needs*  
 20                  *survey used to develop the needs formula, the private*  
 21                  *utilities shall be eligible to receive funds under this*  
 22                  *title.”.*

23                  “(j) *RESERVATION OF FUNDS FOR PLANNING.—Section*  
 24                  *604(b) of the Federal Water Pollution Control Act (33*

1 *U.S.C. 1384(b)) is amended by striking “1 percent” and*  
 2 *inserting “2 percent”.*

3 *(k) AUDITS, REPORTS, AND FISCAL CONTROLS; IN-*  
 4 *TENDED USE PLAN.—Section 606 of the Federal Water Pol-*  
 5 *lution Control Act (33 U.S.C. 1386) is amended—*

6 *(1) in subsection (c)—*

7 *(A) in the first sentence, by inserting “(in-*  
 8 *cluding public outreach)” after “review”; and*

9 *(B) in the second sentence, by striking*  
 10 *paragraph (1) and inserting the following:*

11 *“(1) a description, in summary form, of the pri-*  
 12 *ority projects developed under section 603(g) for*  
 13 *which the State intends to provide assistance from the*  
 14 *water pollution control revolving fund of the State for*  
 15 *the year covered by the plan;”; and*

16 *(2) in subsection (d)—*

17 *(A) in the subsection heading, by striking*  
 18 *“REPORT” and inserting “REPORTS”;*

19 *(B) by striking “Beginning the” and insert-*  
 20 *ing the following:*

21 *“(1) IN GENERAL.—Beginning in the”; and*

22 *(C) by adding at the end the following:*

23 *“(2) REPORT ON TECHNICAL, MANAGERIAL, AND*  
 24 *FINANCIAL CAPACITY.—Not later than 2 years after*  
 25 *the date on which a State first adopts a strategy in*

1       *accordance with section 603(i)(2), and annually*  
 2       *thereafter, the State shall submit to the Administrator*  
 3       *a report on the progress made in improving the ca-*  
 4       *capacity described in section 603(i)(2)(A)(i) of treat-*  
 5       *ment works in the State (including the progress of the*  
 6       *State in complying with the amendments to section*  
 7       *603 made by the Water Investment Act of 2002).*

8               “(3) *AVAILABILITY.*—*A State that submits a re-*  
 9       *port under this subsection shall make the report avail-*  
 10       *able to the public.”.*

11       *(l) AUTHORIZATION OF APPROPRIATIONS.*—*Section*  
 12       *607 of the Federal Water Pollution Control Act (33 U.S.C.*  
 13       *1387) is amended to read as follows:*

14       **“SEC. 607. AUTHORIZATION OF APPROPRIATIONS.**

15       “(a) *IN GENERAL.*—*There are authorized to be appro-*  
 16       *priated to carry out this title—*

17               “(1) *\$3,200,000,000 for each of fiscal years 2003*  
 18       *and 2004;*

19               “(2) *\$3,600,000,000 for fiscal year 2005;*

20               “(3) *\$4,000,000,000 for fiscal year 2006; and*

21               “(4) *\$6,000,000,000 for fiscal year 2007.*

22       “(b) *AVAILABILITY.*—*Amounts made available under*  
 23       *this section shall remain available until expended.*

24       “(c) *NEEDS SURVEYS.*—*Of the amount made available*  
 25       *under subsection (a) to carry out this title for a fiscal year,*

1 *the Administrator may use not more than \$1,000,000 for*  
 2 *the fiscal year to pay the costs of conducting needs surveys*  
 3 *under section 516(2).”.*

4 *(m) CONFORMING AMENDMENT.—Section 216 of the*  
 5 *Federal Water Pollution Control Act (33 U.S.C. 1296) is*  
 6 *amended—*

7 *(1) in the first sentence, by inserting “in accord-*  
 8 *ance with section 603(g),” before “the determination”;*  
 9 *and*

10 *(2) by striking the “Not less than 25 per cen-*  
 11 *tum” and all that follows.*

12 **SEC. 104. SEWER OVERFLOW CONTROL GRANTS.**

13 *(a) IN GENERAL.—Section 221(f) of the Federal Water*  
 14 *Pollution Control Act (33 U.S.C. 1301(f)) is amended by*  
 15 *striking “section \$750,000,000” and all that follows and in-*  
 16 *serting “section, to remain available until expended—*

17 *“(1) \$750,000,000 for each of fiscal years 2002*  
 18 *and 2003; and*

19 *“(2) \$250,000,000 for each of fiscal years 2004*  
 20 *through 2007.”.*

21 *(b) TECHNICAL CORRECTION.—Title I of the Federal*  
 22 *Water Pollution Control Act is amended by redesignating*  
 23 *the second section 121 (33 U.S.C. 1274) as section 122.*

1       ***TITLE II—SAFE DRINKING***  
 2       ***WATER ACT MODIFICATIONS***  
 3       ***Subtitle A—State Revolving Loan***  
 4       ***Fund Projects and Activities***

5       ***SEC. 201. NEW YORK CITY WATERSHED PROTECTION PRO-***  
 6               ***GRAM.***

7           *Section 1443(d)(4) of the Safe Drinking Water Act (42*  
 8       *U.S.C. 300j-2(d)(4)) is amended by striking “1997 through*  
 9       *2003, \$15,000,000” and inserting “2003 through 2010,*  
 10       *\$25,000,000”.*

11       ***SEC. 202. LABOR STANDARDS.***

12           *Section 1450(e) of the Safe Drinking Water Act (42*  
 13       *U.S.C. 300j-9(e)) is amended by striking “(e) The Adminis-*  
 14       *trator” and all that follows through “The Secretary of*  
 15       *Labor” in the second sentence and inserting the following:*

16           “(e) **LABOR STANDARDS.**—

17               “(1) **IN GENERAL.**—*The Administrator shall take*  
 18       *such action as is necessary to ensure that all laborers*  
 19       *and mechanics employed by contractors and sub-*  
 20       *contractors on construction projects financed, in*  
 21       *whole or in part, by a grant, loan, loan guarantee,*  
 22       *refinancing, or any other form of assistance provided*  
 23       *under this title (including assistance provided from*  
 24       *the State drinking water revolving fund under section*  
 25       *1452) are paid wages at rates that are not less than*

1     *the rates prevailing for the same type of work for*  
 2     *similar construction in the immediate locality, as de-*  
 3     *termined by the Secretary of Labor in accordance*  
 4     *with the Act of March 3, 1931 (40 U.S.C. 276a et*  
 5     *seq.).*

6             “(2) *AUTHORITY AND FUNCTIONS.*—*The Sec-*  
 7     *retary of Labor”.*

8     **SEC. 203. PLANNING, DESIGN, AND PRECONSTRUCTION**  
 9             **COSTS.**

10     *Section 1452(a)(2) of the Safe Drinking Water Act (42*  
 11     *U.S.C. 300j-12(a)(2)) is amended—*

12             *(1) in the second sentence, by inserting before the*  
 13     *period at the end the following: “, including plan-*  
 14     *ning, design, and associated preconstruction expendi-*  
 15     *tures and projects for consolidation among commu-*  
 16     *nity water systems”; and*

17             *(2) in the third sentence, by inserting before the*  
 18     *period at the end the following: “or carrying out any*  
 19     *project or activity to increase the security of a public*  
 20     *water system”.*

21     **SEC. 204. STATE REVOLVING LOAN FUND.**

22             *(a) IN GENERAL.*—*Section 1452(a)(3)(B)(ii) of the*  
 23     *Safe Drinking Water Act (42 U.S.C. 300j-12(a)(3)(B)(ii))*  
 24     *is amended by inserting “and the formation of regional*  
 25     *partnerships” after “procedures”.*

1       (b) *PUBLIC OUTREACH.*—Section 1452(b) of the Safe  
 2   *Drinking Water Act* (42 U.S.C. 300j–12(b)) is amended in  
 3   paragraphs (1) and (3)(B) by inserting “(including signifi-  
 4   cant public outreach)” after “comment” each place it ap-  
 5   pears.

6       (c) *TYPES OF ASSISTANCE.*—Section 1452 of the Safe  
 7   *Drinking Water Act* (42 U.S.C. 300j–12) is amended by  
 8   striking subsection (f) and inserting the following:

9       “(f) *TYPES OF ASSISTANCE.*—

10       “(1) *IN GENERAL.*—Except as otherwise limited  
 11   by State law, the amounts deposited into a State loan  
 12   fund under this section may be used only—

13       “(A) to make loans, on the condition that—

14       “(i) the interest rate for each loan is  
 15       less than or equal to the market interest rate  
 16       (including an interest-free loan);

17       “(ii)(I) principal and interest pay-  
 18       ments on each loan will commence not later  
 19       than 1 year after completion of the project  
 20       for which the loan was made, and each loan  
 21       will be fully amortized not later than 30  
 22       years after the completion of the project, ex-  
 23       cept that in the case of a disadvantaged  
 24       community (as defined in subsection  
 25       (d)(3)), a State may provide an extended



1           *term of not more than 40 years for a loan;*  
 2           *and*

3           *“(II) the term of any loan described in*  
 4           *subclause (I) will not exceed the expected de-*  
 5           *sign life of the project;*

6           *“(iii) the recipient of each loan will es-*  
 7           *tablish a dedicated source of revenue (or, in*  
 8           *the case of a privately owned system, dem-*  
 9           *onstrate that there is adequate security) for*  
 10          *the repayment of the loan;*

11          *“(iv) the State loan fund will be cred-*  
 12          *ited with all payments of principal and in-*  
 13          *terest on each loan;*

14          *“(v) the recipient of the loan funds*  
 15          *demonstrates and documents to the State*  
 16          *that the recipient has considered, during the*  
 17          *planning and engineering phase of each*  
 18          *project for which the loan funds are*  
 19          *received—*

20                *“(I) consolidating management*  
 21                *functions or ownership with another*  
 22                *facility;*

23                *“(II) forming cooperative partner-*  
 24                *ships; and*

1                   “(III) using methodologies or tech-  
2                   nologies that may be more environ-  
3                   mentally sensitive;

4                   “(vi) if the recipient of the loan funds  
5                   receives, in the aggregate, more than  
6                   \$500,000 under this section for any fiscal  
7                   year, the recipient demonstrates and docu-  
8                   ments to the State that the recipient has in  
9                   effect a plan to achieve, within a reasonable  
10                  period of time, a rate structure that, to the  
11                  maximum extent practicable—

12                  “(I) reflects the actual cost of serv-  
13                  ice provided by the recipient; and

14                  “(II) addresses capital replace-  
15                  ment funds; and

16                  “(vii) the recipient of each loan that  
17                  receives, in the aggregate, more than  
18                  \$500,000 under this section for any fiscal  
19                  year, demonstrates and documents to the  
20                  State that the recipient has in effect, or will  
21                  have in effect on completion of the project,  
22                  an asset management plan (for which the  
23                  Administrator may publish information to  
24                  assist States in determining required con-  
25                  tent) that—

1                   “(I) conforms to generally accept-  
2                   ed industry practices; and

3                   “(II) includes—

4                         “(aa) an inventory of exist-  
5                         ing assets (including an estimate  
6                         of the useful life of the assets); and

7                         “(bb) an optimal schedule of  
8                         operations, maintenance, and  
9                         capital investment required to  
10                        meet and sustain performance ob-  
11                        jectives;

12                   “(B) to buy or refinance the debt obligation  
13                   of a municipality or an intermunicipal or inter-  
14                   state agency within the State at an interest rate  
15                   that is less than or equal to the market interest  
16                   rate in any case in which a debt obligation is  
17                   incurred after July 1, 1993;

18                   “(C) to guarantee, or purchase insurance  
19                   for, a local obligation (all of the proceeds of  
20                   which finance a project eligible for assistance  
21                   under this section) if the guarantee or purchase  
22                   would improve credit market access or reduce the  
23                   interest rate applicable to the obligation;

24                   “(D) as a source of revenue or security for  
25                   the payment of principal and interest on revenue

1           *or general obligation bonds issued by the State*  
 2           *if the proceeds of the sale of the bonds will be de-*  
 3           *posited into the State loan fund; and*

4           *“(E) to earn interest on the amounts depos-*  
 5           *ited into the State loan fund.*

6           “(2) *EXEMPTION.*—*Clauses (v), (vi), and (vii) of*  
 7           *paragraph (1)(A) shall not apply to assistance pro-*  
 8           *vided under this title that is to be used solely for—*

9           *“(A) planning;*

10          *“(B) design; or*

11          *“(C) security measures that do not result in*  
 12          *significant capital expenditures (as defined by a*  
 13          *State in accordance with guidance provided by*  
 14          *the Administrator).”.*

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

19                 “(5) *CONSULTATION AND COORDINATION WITH*  
 20                 *STATE AGENCIES.*—*As a condition of receiving assist-*  
 21                 *ance under this section, a recipient shall demonstrate*  
 22                 *and document to the State that the recipient, in using*  
 23                 *the assistance, will consult and coordinate with, as*  
 24                 *appropriate, agencies with authority to develop—*

25                 *“(A) local land use plans;*

1                   “(B) regional transportation improvement  
2                   and long-range transportation plans; and

3                   “(C) State, regional, and municipal water-  
4                   shed plans.”.

5           (e)   OTHER AUTHORIZED ACTIVITIES.—Section  
6 1452(k) of the Safe Drinking Water Act (42 U.S.C. 300j–  
7 12(k)) is amended—

8                   (1) in paragraph (1), by striking subparagraph  
9                   (D) and inserting the following:

10                   “(D) Subject to paragraph (2)(E), make ex-  
11                   penditures for the development and implementa-  
12                   tion of source water protection programs (includ-  
13                   ing wellhead protection programs under section  
14                   1428).”; and

15                   (2) in paragraph (2), by striking subparagraph  
16                   (E) and inserting the following:

17                   “(E) To make expenditures to develop and  
18                   implement source water protection programs (in-  
19                   cluding wellhead protection programs under sec-  
20                   tion 1428) under paragraph (1)(D).”.

21 **SEC. 205. ADDITIONAL SUBSIDIZATION.**

22           (a) IN GENERAL.—Section 1452(d) of the Safe Drink-  
23 ing Water Act (42 U.S.C. 300j–12(d)) is amended—

24                   (1) by redesignating paragraphs (1), (2), and (3)  
25                   as paragraphs (2), (3), and (1), respectively, and

1        *moving the paragraphs so as to appear in numerical*  
 2        *order;*

3            *(2) in paragraph (1) (as redesignated by para-*  
 4        *graph (1))—*

5            *(A) by striking “(1) DEFINITION OF DIS-*  
 6        *ADVANTAGED COMMUNITY.—In this subsection,*  
 7        *the term” and inserting the following:*

8        *“(1) DEFINITIONS.—In this subsection:*

9            *“(A) DISADVANTAGED COMMUNITY.—The*  
 10        *term”;* and

11            *(B) by adding at the end the following:*

12            *“(B) DISADVANTAGED USER.—The term*  
 13        *‘disadvantaged user’ means a person that meets*  
 14        *affordability criteria established, after public re-*  
 15        *view and comment, by the State in which the*  
 16        *person resides.”;*

17            *(3) in paragraph (2) (as redesignated by para-*  
 18        *graph (1))—*

19            *(A) by striking “Notwithstanding any other*  
 20        *provision” and inserting the following:*

21            *“(A) IN GENERAL.—Notwithstanding any*  
 22        *other provision”;* and

23            *(B) by adding at the end the following:*

24            *“(B) SUBSIDIZATION FOR DISADVANTAGED*  
 25        *USERS.—*

1           “(i) *IN GENERAL.*—Subject to clause  
 2           (ii), a State may provide additional sub-  
 3           sidization under subparagraph (A) for a  
 4           fiscal year for a community that does not  
 5           meet the definition of a disadvantaged com-  
 6           munity if the recipient of the assistance  
 7           demonstrates and documents to the State  
 8           that the recipient, in using the assistance,  
 9           directed the additional subsidization, to the  
 10          maximum extent practicable, through the  
 11          user charge rate system or a similar pro-  
 12          gram to disadvantaged users within the res-  
 13          idential user class of the community.

14          “(ii) *MAXIMUM AMOUNT.*—Assistance  
 15          provided by a State under clause (i) shall  
 16          not exceed 15 percent of the amount of the  
 17          capitalization grant received by the State  
 18          for the fiscal year under this section.

19          “(iii) *INFORMATION.*—The Adminis-  
 20          trator may provide information to assist  
 21          States in identifying disadvantaged users  
 22          described in clause (i).

23          “(iv) *NO DUPLICATE ASSISTANCE.*—A  
 24          disadvantaged user within a community  
 25          that receives assistance as a disadvantaged

1                   community under this subsection shall not  
 2                   be eligible for assistance under this para-  
 3                   graph.”; and

4                   (4) in paragraph (3) (as redesignated by para-  
 5                   graph (1)), by striking “paragraph (1)” and inserting  
 6                   “paragraph (2)”.

7           (b)           CONFORMING           AMENDMENTS.—Section  
 8   1452(f)(1)(B) of the Safe Drinking Water Act (42 U.S.C.  
 9   300j–12(f)(1)(B)) is amended by striking “(d)(3)” and in-  
 10   serting “(d)(1)”.

11   **SEC. 206. PRIVATE UTILITIES.**

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

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

16                           “(1) *IN GENERAL.*—The Administrator”; and

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

18                           “(2) *PRIVATE UTILITIES.*—If a State elects to in-  
 19                   clude the needs of private utilities in the needs survey  
 20                   under paragraph (1), the private utilities shall be eli-  
 21                   gible to receive funds under this title.”.

22   **SEC. 207. TECHNICAL ASSISTANCE FOR SMALL SYSTEMS.**

23           (a) *SMALL PUBLIC WATER SYSTEMS TECHNOLOGY AS-*  
 24   *SISTANCE CENTERS.*—Section 1420(f) of the Safe Drinking  
 25   Water Act (42 U.S.C. 300g–9(f)) is amended—



1           (1) in paragraph (2), by inserting “technology  
2           verification, pilot and field testing of innovative tech-  
3           nologies, and” after “shall include”; and

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

6           “(6) *REVIEW AND EVALUATION.*—

7                 “(A) *IN GENERAL.*—Not less often than  
8                 every 2 years, the Administrator shall review  
9                 and evaluate the program carried out under this  
10                subsection.

11               “(B) *DISQUALIFICATION.*—If, in carrying  
12                out this subsection, the Administrator determines  
13                that a small public water system technology as-  
14                sistance center is not carrying out the duties of  
15                the center, the Administrator—

16                   “(i) shall notify the center of the deter-  
17                   mination of the Administrator; and

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

21           “(7) *AUTHORIZATION OF APPROPRIATIONS.*—

22           *There is authorized to be appropriated to carry out*  
23           *this subsection \$6,000,000 for each of fiscal years*  
24           *2003 through 2007, to be distributed to the centers in*  
25           *accordance with this subsection.”.*

1       (b) *ENVIRONMENTAL FINANCE CENTERS.*—Section  
 2   1420(g) of the Safe Drinking Water Act (42 U.S.C. 300g–  
 3   9(g)) is amended by striking paragraph (4) and inserting  
 4   the following:

5           “(4) *AUTHORIZATION OF APPROPRIATIONS.*—  
 6       There is authorized to be appropriated to carry out  
 7       this subsection \$2,000,000 for each of fiscal years  
 8       2003 through 2007.”.

9   **SEC. 208. AUTHORIZATION OF APPROPRIATIONS.**

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

13       “(m) *AUTHORIZATION OF APPROPRIATIONS.*—

14           “(1) *IN GENERAL.*—There are authorized to be  
 15       appropriated to carry out this section—

16                   “(A) \$1,500,000,000 for fiscal year 2003;

17                   “(B) \$2,000,000,000 for each of fiscal years  
 18       2004 and 2005;

19                   “(C) \$3,500,000,000 for fiscal year 2006;

20       and

21                   “(D) \$6,000,000,000 for fiscal year 2007.

22       “(2) *AVAILABILITY.*—Amounts made available  
 23       under this subsection shall remain available until ex-  
 24       pended.

1           “(3) *NEEDS SURVEYS*.—Of the amount made  
 2           available under paragraph (1) to carry out this sec-  
 3           tion for a fiscal year, the Administrator may use not  
 4           more than \$1,000,000 for the fiscal year to pay the  
 5           costs of conducting needs surveys under subsections  
 6           (h) and (i).”.

## 7           ***Subtitle B—Small Public Water*** 8           ***System Assistance***

### 9   ***SEC. 211. SHORT TITLE.***

10           *This subtitle may be cited as the “Small Community*  
 11           *Drinking Water Funding Act”.*

### 12   ***SEC. 212. FINDINGS AND PURPOSE.***

13           (a) *FINDINGS*.—Congress finds that—

14                   (1) *in some cases, existing and proposed drink-*  
 15                   *ing water standards as of the date of enactment of*  
 16                   *this Act can place large financial burdens on public*  
 17                   *water systems, especially systems that serve fewer*  
 18                   *than a few thousand people;*

19                   (2) *some small public water systems have experi-*  
 20                   *enced water contamination problems that may pose a*  
 21                   *significant risk to the health of water consumers;*

22                   (3) *small communities are concerned about im-*  
 23                   *proving drinking water quality;*

24                   (4) *the limited scientific, technical, and profes-*  
 25                   *sional resources of many small communities make un-*

1        *derstanding and implementing regulatory require-*  
2        *ments very difficult;*

3            (5) *small communities often struggle to meet*  
4        *water quality standards because of difficulty in secur-*  
5        *ing funding;*

6            (6) *small communities often lack a tax base or*  
7        *opportunities to benefit from economics of scale and*  
8        *therefore face very high per capita costs in improving*  
9        *drinking water quality;*

10          (7) *the smallest public water systems, which*  
11        *serve fewer than 3,300 people, represent 85 percent of*  
12        *all public water systems;*

13          (8) *small public water systems serving fewer*  
14        *than 10,000 people represent 94 percent of all public*  
15        *water systems;*

16          (9) *small communities would benefit from a*  
17        *grant program designed to provide funding for water*  
18        *quality projects without a substantial matching re-*  
19        *quirement; and*

20          (10) *Federal programs in effect as of the date of*  
21        *enactment of this Act do not adequately meet the*  
22        *needs of small communities with respect to public*  
23        *water systems.*

1       (b) *PURPOSE.*—*The purpose of this subtitle is to estab-*  
 2 *lish a program to provide grants for public water systems*  
 3 *to—*

4           (1) *meet applicable national primary drinking*  
 5 *water regulations under the Safe Drinking Water Act*  
 6 *(42 U.S.C. 300f et seq.);*

7           (2) *maintain water costs at a reasonable level for*  
 8 *communities served by small public water systems;*  
 9 *and*

10          (3) *obtain technical assistance to develop the ca-*  
 11 *capacity to sustain operations over the long term.*

12 **SEC. 213. SMALL PUBLIC WATER SYSTEM ASSISTANCE PRO-**  
 13 **GRAM.**

14       (a) *ESTABLISHMENT OF PROGRAM.*—*The Safe Drink-*  
 15 *ing Water Act (42 U.S.C. 300f et seq.) is amended by add-*  
 16 *ing at the end the following:*

17       **“PART G—SMALL PUBLIC WATER SYSTEM**  
 18 **ASSISTANCE**

19 **“SEC. 1471. DEFINITIONS.**

20       *“In this part:*

21           *“(1) ELIGIBLE ACTIVITY.—*

22               *“(A) IN GENERAL.—The term ‘eligible activ-*  
 23 *ity’ means an activity that is carried out by an*  
 24 *eligible entity for a purpose consistent with sec-*  
 25 *tion 1473(c)(1).*

1           “(B) *EXCLUSION.*—The term ‘eligible activ-  
 2           ity’ does not include any activity to increase the  
 3           population served by a public water system, ex-  
 4           cept to the extent that the Administrator under  
 5           section 1473(b)(1) determines an activity to be  
 6           necessary to—

7                   “(i) achieve compliance with a na-  
 8                   tional primary drinking water regulation;  
 9                   and

10                  “(ii) provide a water supply to a pop-  
 11                  ulation that, as of the date of enactment of  
 12                  this part, is not served by a safe public  
 13                  water system.

14           “(2) *ELIGIBLE ENTITY.*—The term ‘eligible enti-  
 15           ty’ means—

16                   “(A) a small public water system that—

17                           “(i) is located in—

18                                   “(I) a State; or

19                                   “(II) an area governed by an In-  
 20                           dian Tribe;

21                   “(ii) if located in a State, serves a  
 22                   community that, under affordability cri-  
 23                   teria established by the State under section  
 24                   1452(d), is determined by the State to be—

1                   “(I) a disadvantaged community;

2                   or

3                   “(II) a community that would  
4 otherwise become a disadvantaged com-  
5 munity as a result of carrying out an  
6 eligible activity, as determined by the  
7 State; or

8                   “(iii) if located in an area governed by  
9 an Indian Tribe, serves a community that  
10 is determined by the Administrator, under  
11 criteria published by the Administrator  
12 under section 1452(d) and in consultation  
13 with the Secretary, to be—

14                   “(I) a disadvantaged community;

15                   or

16                   “(II) a community that would  
17 otherwise become a disadvantaged com-  
18 munity as a result of carrying out an  
19 eligible activity, as determined by the  
20 State;

21                   “(B) a public water system that—

22                   “(i) would incur a significant increase  
23 of \$3,000,000 or more in costs in complying  
24 with national primary drinking water reg-  
25 ulations promulgated under this Act; and

1                   “(ii) is a disadvantaged community or  
 2                   a community may otherwise become dis-  
 3                   advantaged as a result of carrying out an  
 4                   eligible activity, as determined by the State;  
 5                   or

6                   “(C) a public water system located in  
 7                   Bernalillo or Sandoval County, New Mexico,  
 8                   Scottsdale, Arizona, or Mesquite or Washoe  
 9                   County, Nevada, that would incur a significant  
 10                  increase in costs in complying with national pri-  
 11                  mary drinking water regulations promulgated  
 12                  under this Act.

13                  “(3) PROGRAM.—The term ‘program’ means the  
 14                  small public water system assistance program estab-  
 15                  lished under section 1472(a).

16                  “(4) SECRETARY.—The term ‘Secretary’ means  
 17                  the Secretary of Health and Human Services, acting  
 18                  through the Director of the Indian Health Service.

19                  “(5) SMALL PUBLIC WATER SYSTEM.—The term  
 20                  ‘small public water system’ means a public water sys-  
 21                  tem (including a community water system and a  
 22                  noncommunity water system) that serves a popu-  
 23                  lation of 15,000 or fewer individuals.



1 **“SEC. 1472. SMALL PUBLIC WATER SYSTEM ASSISTANCE**  
 2 **PROGRAM.**

3 “(a) *ESTABLISHMENT.*—Not later than July 1, 2003,  
 4 the Administrator shall establish within the Environmental  
 5 Protection Agency a small public water system assistance  
 6 program.

7 “(b) *DUTIES.*—Under the program, the Administrator  
 8 shall—

9 “(1) in accordance with section 1473, establish  
 10 and administer a small public water system assist-  
 11 ance program for, and provide grants to, eligible enti-  
 12 ties for use in carrying out eligible activities; and

13 “(2) identify, and prepare annual prioritized  
 14 lists of, activities for eligible entities located in areas  
 15 governed by Indian Tribes that are eligible for grants  
 16 under section 1473.

17 “(c) *PRIORITY.*—

18 “(1) *IN GENERAL.*—The Administrator shall pro-  
 19 vide grants to eligible entities for eligible activities  
 20 that—

21 “(A) address the most serious risks to  
 22 human health from lack of compliance with the  
 23 regulations specified in subparagraph (B);

24 “(B) are necessary to ensure compliance  
 25 with national primary drinking water regula-

1        *tions applicable to eligible entities under section*  
 2        *1412; and*

3                *“(C) assist systems serving communities*  
 4        *that are most in need, as calculated on the basis*  
 5        *of median household income, under affordability*  
 6        *criteria established by the State under section*  
 7        *1452(d).*

8                *“(2) MANAGEMENT COOPERATIVES.—The Admin-*  
 9        *istrator shall consider giving priority for grants*  
 10       *under this section to eligible activities that are car-*  
 11       *ried out by communities that form management co-*  
 12       *operatives.*

13               *“(d) TECHNICAL ASSISTANCE.—In providing grants*  
 14       *under this section, the Administrator shall—*

15               *“(1) use not less than 1.5 percent of funds made*  
 16       *available to carry out this section to provide grants*  
 17       *to nonprofit technical assistance organizations to be*  
 18       *used to assist eligible entities in—*

19               *“(A) assessing needs relating to eligible ac-*  
 20       *tivities;*

21               *“(B) identifying additional available*  
 22       *sources of funding to meet the cost-sharing re-*  
 23       *quirements under the program;*

1           “(C) *planning, implementing, and main-*  
 2           *taining any eligible activities of the eligible enti-*  
 3           *ties that receive funding under this section;*

4           “(2) *require that none of the funds provided*  
 5           *under paragraph (1) be used to pay for lobbying ex-*  
 6           *penses; and*

7           “(3) *require that for each fiscal year, not more*  
 8           *than 5 percent of the funds received by an eligible en-*  
 9           *tity under this section may be used to obtain tech-*  
 10          *nical assistance in planning, implementing, and*  
 11          *maintaining eligible activities for which funding is*  
 12          *provided under this section.*

13          “(e) *INDIAN TRIBES.—In providing grants under this*  
 14          *section, the Administrator shall use not less than 3 percent*  
 15          *of funds made available to carry out this section for each*  
 16          *fiscal year to provide grants to eligible entities that are lo-*  
 17          *cated in areas governed by Indian Tribes.*

18          “(f) *LIMITATION ON RECEIPT OF FUNDS.—*

19                 “(1) *IN GENERAL.—Except as provided in para-*  
 20                 *graph (2), a grant under this section shall not be pro-*  
 21                 *vided to an eligible entity that, as determined by the*  
 22                 *Administrator—*

23                         “(A) *does not have the technical, manage-*  
 24                         *rial, operations, maintenance, or financial ca-*  
 25                         *capacity to ensure compliance with national pri-*

1        *mary drinking water regulations applicable to*  
 2        *the eligible entity under section 1412; or*

3                *“(B) is in significant noncompliance with*  
 4        *any applicable national primary drinking water*  
 5        *regulation.*

6                *“(2) EXCEPTION FOR RECEIPT OF GRANT.—An*  
 7        *eligible entity described in paragraph (1) may receive*  
 8        *a grant under this section only—*

9                *“(A) if the Administrator determines that*  
 10        *use of the grant will ensure compliance with na-*  
 11        *tional primary drinking water regulations ap-*  
 12        *plicable to the eligible entity under section 1412;*

13                *“(B)(i) to restructure or consolidate the fa-*  
 14        *cility to achieve compliance with applicable na-*  
 15        *tional primary drinking water regulations; or*

16                *“(ii) in a case in which restructuring or*  
 17        *consolidation of the facility is not practicable, if*  
 18        *the Administrator determines that—*

19                *“(I) the eligible entity has made a good*  
 20        *faith effort to achieve compliance with ap-*  
 21        *plicable national primary drinking water*  
 22        *regulations; and*

23                *“(II) the eligible entity is adhering to*  
 24        *an enforceable schedule for complying with*  
 25        *those regulations; and*

1           “(C) in a case in which paragraph (1)(A)  
2           applies to an eligible entity, and the eligible en-  
3           tity agrees to undertake feasible and appropriate  
4           changes in operations (including changes in  
5           ownership, management, accounting, rates,  
6           maintenance, consolidation, provision of an al-  
7           ternative water supply, or other procedures), if  
8           the Administrator determines that the measures  
9           are necessary to ensure that the eligible entity  
10          has the capacity described in (1)(A) to comply  
11          with applicable national primary drinking  
12          water regulations over the long term.

13          “(3) *REVIEW.*—Before providing assistance  
14          under this section to an eligible entity that is in sig-  
15          nificant noncompliance with any national primary  
16          drinking water regulation applicable to the eligible  
17          entity under section 1412, the Administrator shall  
18          conduct a review to determine whether paragraph  
19          (1)(A) applies to the entity.

20          “(g) *COST SHARING.*—

21                 “(1) *IN GENERAL.*—Except as provided in para-  
22                 graph (2), the share of the total cost of an eligible ac-  
23                 tivity funded by a grant under this section shall not  
24                 exceed 80 percent.

1           “(2) *WAIVER OF COST-SHARING REQUIRE-*  
 2           *MENT.—The Administrator may waive the require-*  
 3           *ment of an eligible entity to pay all or a portion of*  
 4           *the share of an eligible activity that may not be fund-*  
 5           *ed by a grant under this section, based on a deter-*  
 6           *mination by the State that the eligible entity is un-*  
 7           *able to pay any or all of the share.*

8   **“SEC. 1473. SMALL PUBLIC WATER SYSTEM ASSISTANCE**  
 9           **PROGRAM FOR INDIAN TRIBES.**

10          “(a) *ESTABLISHMENT.—Not later than July 1, 2003,*  
 11          *the Administrator shall establish a small public water sys-*  
 12          *tem assistance program for Indian Tribes, through which*  
 13          *eligible entities located in areas governed by the Indian*  
 14          *Tribe may receive grants for eligible activities under this*  
 15          *part.*

16          “(b) *PROGRAM PRIORITY REQUIREMENT.—*

17                  “(1) *LIST OF ELIGIBLE ACTIVITIES.—*

18                          “(A) *IN GENERAL.—The Administrator, in*  
 19                          *consultation with the Secretary, shall, for each*  
 20                          *fiscal year, identify, and, using the priority cri-*  
 21                          *teria described in paragraph (2) and considering*  
 22                          *the additional criteria described in paragraph*  
 23                          *(3), list in descending order of priority, eligible*  
 24                          *activities for eligible entities located in areas*

1       *governed by Indian Tribes for which funds pro-*  
2       *vided from a grant under this part may be used.*

3       “(B) *COORDINATION.*—

4               “(i) *IN GENERAL.*—*To the maximum*  
5       *extent practicable, the Administrator shall*  
6       *ensure that the preparation of the list under*  
7       *subparagraph (A) is coordinated with any*  
8       *needs assessment conducted under section*  
9       *1452(i)(4).*

10              “(ii) *ADDITIONAL CONSIDERATION.*—  
11       *Any additional financial needs of small*  
12       *public water systems located in areas gov-*  
13       *erned by Indian Tribes that are associated*  
14       *with the cost of complying with a national*  
15       *primary drinking water regulation (includ-*  
16       *ing a regulation concerning arsenic) that is*  
17       *promulgated after the then most recent*  
18       *needs survey conducted under section*  
19       *1452(i)(4) shall be factored into the deter-*  
20       *mination of financial need for, and*  
21       *prioritization of, eligible activities under*  
22       *this section.*

23              “(2) *PRIORITY CRITERIA.*—*In preparing the list*  
24       *under paragraph (1), the Administrator shall give*

1     *priority for the use of grants to eligible activities*  
 2     *that—*

3             *“(A) address the most serious risk to human*  
 4             *health;*

5             *“(B) are necessary to ensure compliance*  
 6             *with national primary water regulations appli-*  
 7             *cable to eligible entities under section 1412; and*

8             *“(C) assist systems most in need, as cal-*  
 9             *culated on the basis of median household income,*  
 10            *under affordability criteria published by the Ad-*  
 11            *ministrator under section 1452(d).*

12            *“(3) ADDITIONAL CRITERIA.—In addition to the*  
 13            *priority criteria described in paragraph (2), the Ad-*  
 14            *ministrator shall, in preparing a list under para-*  
 15            *graph (1), consider giving additional priority to any*  
 16            *listed eligible activities that are to be carried out by*  
 17            *communities that form management cooperatives (in-*  
 18            *cluding management cooperatives between systems*  
 19            *that do not have public water system connections).*

20            *“(c) USE OF FUNDS.—*

21            *“(1) IN GENERAL.—Using funds made available*  
 22            *to carry out section 1472, the Administrator shall*  
 23            *provide to an eligible entity located in an area gov-*  
 24            *erned by an Indian Tribe, on a cost-shared basis (in*  
 25            *accordance with subsection (f)), a grant to be used for*



1     *an eligible activity (including source water protec-*  
 2     *tion) the purpose of which is to ensure compliance*  
 3     *with national primary drinking water regulations*  
 4     *applicable to the eligible entity under section 1412.*

5             “(2) *ALLOCATION OF GRANT FUNDING.—For each*  
 6     *fiscal year, the Administrator, in consultation with*  
 7     *the Secretary, shall provide grants under paragraph*  
 8     *(1) for the maximum number of eligible activities for*  
 9     *which the funding allocation makes assistance avail-*  
 10    *able, based on the priority assigned by the Adminis-*  
 11    *trator to eligible activities under subsection (b).*

12            “(d) *LIMITATION ON USE OF FUNDS.—For each fiscal*  
 13    *year, not more than 5 percent of the funds received by an*  
 14    *eligible entity under this section may be used to obtain tech-*  
 15    *nical assistance in planning, implementing, and maintain-*  
 16    *ing eligible activities that are funded under this section.*

17            “(e) *LIMITATION ON RECEIPT OF FUNDS.—*

18                “(1) *IN GENERAL.—Except as provided in para-*  
 19    *graph (2), a grant under this section shall not be pro-*  
 20    *vided to an eligible entity that, as determined by the*  
 21    *Administrator—*

22                    “(A) *does not have the technical, manage-*  
 23                    *rial, operations, maintenance, or financial ca-*  
 24                    *capacity to ensure compliance with national pri-*

1        *mary drinking water regulations applicable to*  
 2        *the eligible entity under section 1412; or*

3                *“(B) is in significant noncompliance with*  
 4        *any applicable national primary drinking water*  
 5        *regulation.*

6                *“(2) EXCEPTION FOR RECEIPT OF GRANT.—An*  
 7        *eligible entity described in paragraph (1) may receive*  
 8        *a grant under this section only—*

9                *“(A) if the Administrator determines that*  
 10        *use of the grant will ensure compliance with na-*  
 11        *tional primary drinking water regulations ap-*  
 12        *plicable to the eligible entity under section 1412;*

13                *“(B)(i) to restructure or consolidate the fa-*  
 14        *cility to achieve compliance with applicable na-*  
 15        *tional primary drinking water regulations; or*

16                *“(ii) in a case in which restructuring or*  
 17        *consolidation of the facility is not practicable, if*  
 18        *the Administrator determines that—*

19                *“(I) the eligible entity has made a good*  
 20        *faith effort to achieve compliance with ap-*  
 21        *plicable national primary drinking water*  
 22        *regulations; and*

23                *“(II) the eligible entity is adhering to*  
 24        *an enforceable schedule for complying with*  
 25        *those regulations; and*

1           “(C) in a case in which paragraph (1)(A)  
 2           applies to an eligible entity, and the eligible en-  
 3           tity agrees to undertake feasible and appropriate  
 4           changes in operations (including changes in  
 5           ownership, management, accounting, rates,  
 6           maintenance, consolidation, provision of an al-  
 7           ternative water supply, or other procedures), if  
 8           the Administrator determines that the measures  
 9           are necessary to ensure that the eligible entity  
 10          has the technical, managerial, operations, main-  
 11          tenance, or financial capacity to comply with  
 12          applicable national primary drinking water reg-  
 13          ulations over the long term.

14          “(3) REVIEW.—Before providing assistance  
 15          under this section to an eligible entity that is in sig-  
 16          nificant noncompliance with any national primary  
 17          drinking water regulation applicable to the eligible  
 18          entity under section 1412, the Administrator shall  
 19          conduct a review to determine whether paragraph  
 20          (1)(A) applies to the entity.

21          “(f) COST SHARING.—

22                 “(1) IN GENERAL.—

23                         “(A) LIMIT.—Except as provided in para-  
 24                         graph (2), the share of the total cost of an eligi-

1        *ble activity funded by a grant under this section*  
 2        *shall not exceed 80 percent.*

3                “(B) *USE OF OTHER FEDERAL FUNDS.—To*  
 4        *pay the portion of an eligible activity that may*  
 5        *not be funded by a grant under this section, an*  
 6        *eligible entity may use Federal financial assist-*  
 7        *ance other than assistance received under this*  
 8        *section.*

9                “(2) *WAIVER OF COST-SHARING REQUIRE-*  
 10        *MENT.—*

11                “(A) *IN GENERAL.—The Administrator*  
 12        *may waive the requirement of an eligible entity*  
 13        *to pay all or a portion of the share of eligible ac-*  
 14        *tivity that may not be funded by a grant under*  
 15        *this section based on a determination by the Ad-*  
 16        *ministrator that the eligible entity is unable to*  
 17        *pay any or all of the share.*

18                “(B) *LIMITATION.—For each fiscal year, the*  
 19        *total amount of cost-share waivers provided by*  
 20        *the Administrator under subparagraph (A) shall*  
 21        *not exceed 30 percent of the amount of funding*  
 22        *used to provide grants to Indian Tribes under*  
 23        *this part.*

24                “(g) *UNOBLIGATED FUNDS.—Any funds not obligated*  
 25        *by the small public water system assistance program estab-*

1 *lished under subsection (a) for a purpose consistent with*  
 2 *the purposes described in section 1472 and subsection (c)*  
 3 *within 1 year after the date on which funds are made avail-*  
 4 *able to carry out this part shall be returned to the Adminis-*  
 5 *trator for use in providing new grants under this part.*

6 **“SEC. 1474. REPORTS.**

7       “(a) *ADMINISTRATOR.—Not later than January 1,*  
 8 *2003, and annually thereafter through January 1, 2007, the*  
 9 *Administrator shall—*

10               “(1) *submit, to the Committee on Environment*  
 11 *and Public Works of the Senate and the Committee on*  
 12 *Energy and Commerce of the House of Representa-*  
 13 *tives, a report that, for the preceding fiscal year—*

14                       “(A) *lists the eligible activities for eligible*  
 15 *entities, as prepared under section 1473(b)(1),*  
 16 *located in areas governed by Indian Tribes, and*  
 17 *in each State, receiving funds under this part;*

18                       “(B) *identifies the number of grants award-*  
 19 *ed under this part by the Administrator to eligi-*  
 20 *ble entities located in areas governed by Indian*  
 21 *Tribes, and in each State, receiving funds under*  
 22 *this part;*

23                       “(C) *identifies each eligible entity that re-*  
 24 *ceives a grant to carry out an eligible activity;*

1           “(D) identifies the amount of each grant  
2           provided to an eligible entity to carry out an eli-  
3           gible activity; and

4           “(E) describes each eligible activity funded  
5           by such a grant (including the status of the eligi-  
6           ble activity); and

7           “(2) make the report under paragraph (1) avail-  
8           able to the public.

9           “(b) INDIAN TRIBES.—Not later than November 1 fol-  
10          lowing each fiscal year in which an Indian Tribe receives  
11          funding under section 1473, the Indian Tribe shall submit  
12          to the Administrator a report that, for the preceding fiscal  
13          year—

14           “(1) identifies the number of grants awarded to  
15          eligible entities located in areas governed by the In-  
16          dian Tribe;

17           “(2) identifies each such eligible entity that re-  
18          ceived a grant to carry out an eligible activity;

19           “(3) identifies the amount of each grant provided  
20          to such an eligible entity to carry out an eligible ac-  
21          tivity; and

22           “(4) describes each eligible activity funded by  
23          such grants (including the status of the eligible activ-  
24          ity).

1 **“SEC. 1475. AUTHORIZATION OF APPROPRIATIONS.**

2       *“There is authorized to be appropriated to carry out*  
 3 *this part \$1,000,000,000 for each of fiscal years 2003*  
 4 *through 2007.”.*

5       (b) *CONFORMING AMENDMENT.*—Section 1401(14) of  
 6 *the Safe Drinking Water Act (42 U.S.C. 300f(14)) is*  
 7 *amended in the second sentence by striking “1452,” and*  
 8 *inserting “1452 and part G,”.*

9 **TITLE III—INNOVATIONS IN**  
 10 **FUND AND WATER QUALITY**  
 11 **MANAGEMENT**

12 **SEC. 301. DEFINITIONS.**

13       *In this title:*

14           (1) *ADMINISTRATOR.*—The term “Adminis-  
 15 *trator” means the Administrator of the Environ-*  
 16 *mental Protection Agency.*

17           (2) *MUNICIPALITY.*—The term “municipality”  
 18 *has the meaning given the term in section 502 of the*  
 19 *Federal Water Pollution Control Act (33 U.S.C.*  
 20 *1362).*

21           (3) *PUBLIC WATER SYSTEM.*—The term “public  
 22 *water system” has the meaning given the term in sec-*  
 23 *tion 1401 of the Safe Drinking Water Act (42 U.S.C.*  
 24 *300f).*

1           (4) *STATE*.—The term “State” has the meaning  
 2           given the term in section 502 of the Federal Water  
 3           Pollution Control Act (33 U.S.C. 1362).

4           (5) *TREATMENT WORKS*.—The term “treatment  
 5           works” has the meaning given the term in section 212  
 6           of the Federal Water Pollution Control Act (33 U.S.C.  
 7           1292).

8   **SEC. 302. DEMONSTRATION GRANT PROGRAM FOR WATER**  
 9                           **QUALITY ENHANCEMENT AND MANAGEMENT.**

10          (a) *ESTABLISHMENT*.—

11               (1) *IN GENERAL*.—As soon as practicable after  
 12               the date of enactment of this Act, the Administrator  
 13               shall establish a nationwide demonstration grant pro-  
 14               gram to—

15                       (A) promote innovations in technology and  
 16                       alternative approaches to water quality manage-  
 17                       ment or water supply; and

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

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

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

24               (2) *SCOPE*.—The demonstration grant program  
 25               shall consist of 10 projects per year, to be carried out



1       *in municipalities selected by the Administrator under*  
 2       *subsection (b).*

3       **(b) SELECTION OF MUNICIPALITIES.—**

4               **(1) APPLICATION.—***A municipality that seeks to*  
 5       *be selected to participate in the demonstration grant*  
 6       *program shall submit to the Administrator a plan*  
 7       *that—*

8                       **(A)** *is developed in coordination with—*

9                               **(i)** *the agency of the State having ju-*  
 10                               *risdiction over water quality or water sup-*  
 11                               *ply matters; and*

12                               **(ii)** *interested stakeholders;*

13                       **(B)** *describes water impacts specific to*  
 14       *urban or rural areas;*

15                       **(C)** *includes a strategy under which the mu-*  
 16       *nicipality, through participation in the dem-*  
 17       *onstration grant program, could effectively—*

18                               **(i)** *address those problems; and*

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

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

23                               **(II)** *are mandated under—*

1                                   (aa) the Federal Water Pol-  
 2                                   lution Control Act (33 U.S.C.  
 3                                   1251 et seq.); and

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

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

8                                   (2) TYPES OF PROJECTS.—In carrying out the  
 9                                   demonstration grant program, the Administrator  
 10                                  shall provide grants for projects relating to water sup-  
 11                                  ply or water quality matters such as—

12                                  (A) excessive nutrient growth;

13                                  (B) urban or rural population pressure;

14                                  (C) a lack of an alternative water supply;

15                                  (D) difficulties in water conservation and  
 16                                  efficiency;

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

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

21                                  (G) nonpoint source water pollution;

22                                  (H) sanitary overflows;

23                                  (I) combined sewer overflows;

24                                  (J) problems with naturally-occurring con-  
 25                                  stituents of concern; or

1                   (K) problems with erosion and excess sedi-  
2                   ment.

3                   (3) *RESPONSIBILITIES OF ADMINISTRATOR.*—In  
4                   providing grants for projects under this subsection,  
5                   the Administrator shall—

6                   (A) ensure, to the maximum extent  
7                   practicable—

8                   (i) the inclusion in the demonstration  
9                   program of a variety of projects with re-  
10                  spect to—

11                               (I) geographic distribution;

12                               (II) innovative technologies used  
13                               for the projects; and

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

17                   (ii) that each category of project de-  
18                   scribed in paragraph (2) is adequately rep-  
19                   resented;

20                   (B) give higher priority to projects that—

21                               (i) address multiple problems; and

22                               (ii) are regionally applicable;

23                   (C) ensure, to the maximum extent prac-  
24                   ticable, that at least 1 community having a pop-

1            *ulation of 10,000 or fewer individuals receives a*  
 2            *grant each fiscal year; and*

3            *(D) ensure that, for each fiscal year, no mu-*  
 4            *nicipality receives more than 25 percent of the*  
 5            *total amount of funds made available for the fis-*  
 6            *cal year to provide grants under this section.*

7            *(4) COST SHARING.—*

8            *(A) IN GENERAL.—Except as provided in*  
 9            *subparagraph (B), the non-Federal share of the*  
 10           *total cost of an eligible activity funded by a*  
 11           *grant under this section shall be at least 20 per-*  
 12           *cent.*

13           *(B) WAIVER.—The Administrator may re-*  
 14           *duce or eliminate the non-Federal share of the*  
 15           *cost of a project for reasons of affordability.*

16           *(c) REPORTS.—*

17           *(1) REPORTS FROM GRANT RECIPIENTS.—A re-*  
 18           *cipient of a grant under this section shall submit to*  
 19           *the Administrator, on the date of completion of a*  
 20           *project of the recipient and on each of the dates that*  
 21           *is 1, 2, and 3 years after that date, a report that de-*  
 22           *scribes the effectiveness of the project.*

23           *(2) REPORTS TO CONGRESS.—Not later than 2*  
 24           *years after the date of enactment of this Act, and*  
 25           *every 2 years thereafter, the Administrator shall com-*

1        *pile, and submit to the Committee on Environment*  
 2        *and Public Works of the Senate, and the Committee*  
 3        *on Transportation and Infrastructure and the Com-*  
 4        *mittee on Energy and Commerce of the House of Rep-*  
 5        *resentatives, a report that describes the status and re-*  
 6        *sults of the demonstration program.*

7        *(d) INCORPORATION OF RESULTS AND INFORMA-*  
 8        *TION.—To the maximum extent practicable, the Adminis-*  
 9        *trator shall incorporate the results of, and information ob-*  
 10       *tained from, successful projects under this section into pro-*  
 11       *grams administered by the Administrator.*

12       *(e) RESEARCH AND DEVELOPMENT.—*

13                *(1) IN GENERAL.—As soon as practicable after*  
 14        *the date of enactment of this Act, the Administrator*  
 15        *shall, through a competitive process, award grants*  
 16        *and enter into contracts and cooperative agreements*  
 17        *for research and development on the use of innovative*  
 18        *and alternative technologies to improve water quality*  
 19        *or drinking water supply.*

20                *(2) TYPES OF PROJECTS.—In carrying out this*  
 21        *subsection, the Administrator may select projects re-*  
 22        *lating to such matters as innovative or alternative*  
 23        *technologies, approaches, practices, or methods—*

1           (A) to increase the effectiveness and effi-  
 2           ciency of public water supply systems,  
 3           including—

4                   (i) source water protection;

5                   (ii) water use reduction;

6                   (iii) water reuse;

7                   (iv) water treatment;

8                   (v) water distribution systems; and

9                   (vi) water security;

10           (B) to encourage the use of innovative or al-  
 11           ternative technologies or approaches relating to  
 12           water supply or availability; or

13           (C) to increase the effectiveness and effi-  
 14           ciency of treatment works, including—

15                   (i) methods of collecting, treating, dis-  
 16           persing, reusing, reclaiming, and recycling  
 17           wastewater;

18                   (ii) system design;

19                   (iii) nonstructural alternatives;

20                   (iv) assessment;

21                   (v) water efficiency; and

22                   (vi) water security.

23           (3) AUTHORIZATION OF APPROPRIATIONS.—

24           There is authorized to be appropriated to carry out

1        *this subsection \$20,000,000 for each of fiscal years*  
 2        *2003 through 2007.*

3        *(f) AUTHORIZATION OF APPROPRIATIONS.—There is*  
 4        *authorized to be appropriated to carry out this section*  
 5        *(other than subsection (e)) \$20,000,000 for each of fiscal*  
 6        *years 2003 through 2007.*

7        **SEC. 303. RATE STUDY.**

8        *(a) IN GENERAL.—Not later than 2 years after the*  
 9        *date of enactment of this Act, the Administrator of the En-*  
 10       *vironmental Protection Agency shall enter into a contract*  
 11       *with the National Academy of Sciences for, and the Na-*  
 12       *tional Academy of Sciences shall complete, a study of the*  
 13       *public water system and treatment works rate structures*  
 14       *for communities in the United States selected by the Acad-*  
 15       *emy in accordance with subsection (c).*

16       *(b) REQUIRED ELEMENTS.—*

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

18                        *(A) determine whether public water system*  
 19                        *and treatment works rates for communities in-*  
 20                        *cluded in the study adequately address the cost*  
 21                        *of service, including funds necessary to replace*  
 22                        *infrastructure;*

23                        *(B) identify the manner in which the public*  
 24                        *water system and treatment works rates were de-*  
 25                        *termined;*

1           (C) determine the manner of measuring the  
2           cost to consumers of services provided by public  
3           water systems and treatment works;

4           (D)(i) survey existing practices for estab-  
5           lishing public water system and treatment works  
6           rates; and

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

10          (E) identify any incentive rate systems that  
11          have been successful in significantly reducing—

12               (i) per capita water demand;

13               (ii) the volume of wastewater flows;

14               (iii) the volume of stormwater runoff;

15               or

16               (iv) the quantity of pollution generated  
17               by stormwater; and

18          (F) recommend a set of best industry prac-  
19          tices for public water systems and treatment  
20          works for use in establishing a rate structure  
21          that—

22               (i) adequately addresses the true cost of  
23               services provided to consumers by public  
24               water systems and treatment works; and



1                   (ii) takes into consideration the needs  
 2                   of disadvantaged individuals and commu-  
 3                   nities, as identified by the Administrator.

4                   (2) *AFFORDABILITY*.—With respect to consumer  
 5                   affordability of services provided by public water sys-  
 6                   tems and treatment works, the study shall—

7                   (A) identify existing standards for afford-  
 8                   ability;

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

11                  (C) determine the manner in which afford-  
 12                  ability varies with respect to communities of dif-  
 13                  ferent sizes and in different regions; and

14                  (D) determine the extent to which afford-  
 15                  ability affects the decision of a community to in-  
 16                  crease public water system and treatment works  
 17                  rates (including the decision relating to the per-  
 18                  centage by which those rates should be in-  
 19                  creased).

20                  (3) *DISADVANTAGED COMMUNITIES*.—The study  
 21                  shall—

22                  (A) survey a cross-section of States rep-  
 23                  resenting various populations, income levels, de-  
 24                  mographics, and geographical regions;

1           (B) describe, for each State described in  
 2           subparagraph (A), the definition of “disadvan-  
 3           taged community” used in the State in carrying  
 4           out projects and activities under the Safe Drink-  
 5           ing Water Act (42 U.S.C. 300f et seq.);

6           (C) review other means of identifying the  
 7           meaning of the term “disadvantaged”, as that  
 8           term applies to communities;

9           (D) determine which factors and character-  
 10          istics are required for a community to be consid-  
 11          ered “disadvantaged”; and

12          (E) evaluate the degree to which factors  
 13          such as a reduction in the tax base over a period  
 14          of time, a reduction in population, the loss of an  
 15          industrial base, and the existence of areas of con-  
 16          centrated poverty are taken into account in de-  
 17          termining whether a community is a disadvan-  
 18          taged community.

19          (c) *SELECTION OF COMMUNITIES.*—The National  
 20          Academy of Sciences shall select communities, the public  
 21          water system and treatment works rate structures of which  
 22          are to be studied under this section, that include a cross  
 23          section of communities representing the characteristics de-  
 24          scribed in subsection (b)(3)(A).

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

5       (e) *AUTHORIZATION OF APPROPRIATIONS.*—There is  
 6 authorized to be appropriated to carry out this section  
 7 \$1,000,000 for each of fiscal years 2003 and 2004.

8 **SEC. 304. STATE REVOLVING FUND REVIEW PROCESS.**

9       As soon as practicable after the date of enactment of  
 10 this Act, the Administrator of the Environmental Protection  
 11 Agency shall—

12           (1) consult with States, treatment works, and  
 13 public water systems to identify ways to streamline  
 14 and improve the application and review process for  
 15 the provision of assistance from—

16                   (A) the State water pollution revolving fund  
 17 under title VI of the Federal Water Pollution  
 18 Control Act (33 U.S.C. 1381 et seq.); and

19                   (B) the State drinking water revolving fund  
 20 under section 1452 of the Safe Drinking Water  
 21 Act (42 U.S.C. 300j–12); and

22           (2) submit to Congress a report, based on the in-  
 23 formation identified under paragraph (1), that con-  
 24 tains recommendations for streamlining and improv-

1        *ing the application and review process described in*  
 2        *that paragraph.*

3    **SEC. 305. TRANSFER OF FUNDS.**

4        *(a) WATER POLLUTION CONTROL FUND.—Section 603*  
 5        *of the Federal Water Pollution Control Act (33 U.S.C.*  
 6        *1383) (as amended by section 103(h)) is amended by adding*  
 7        *at the end the following:*

8            *“(m) TRANSFER OF FUNDS.—*

9            *“(1) IN GENERAL.—A Governor of the State*  
 10          *may—*

11                  *“(A)(i) reserve up to 33 percent of a cap-*  
 12                  *italization grant made under this title for a fis-*  
 13                  *cal year;*

14                  *“(ii) add the funds reserved to any funds*  
 15                  *provided to the State under section 1452 of the*  
 16                  *Safe Drinking Water Act (42 U.S.C. 300j–12);*  
 17                  *and*

18                  *“(iii) use the funds to carry out that sec-*  
 19                  *tion; and*

20                  *“(B)(i) reserve in any fiscal year an*  
 21                  *amount up to the amount that may be reserved*  
 22                  *under subparagraph (A) for that fiscal year from*  
 23                  *capitalization grants made under section 1452 of*  
 24                  *that Act (42 U.S.C. 300j–12);*

1           “(ii) add the reserved funds to any funds  
2           provided to the State under this title; and

3           “(iii) use the funds to carry out this title.

4           “(2) *STATE MATCH*.—Funds reserved under this  
5           subsection shall not be considered to be a State con-  
6           tribution for a capitalization grant required under  
7           this title or section 1452(b) of the Safe Drinking  
8           Water Act (42 U.S.C. 300j–12(b)).”.

9           (b) *SAFE DRINKING WATER FUND*.—Section 1452(g)  
10          of the Safe Drinking Water Act (42 U.S.C. 300j–12(g)) (as  
11          amended by section 204(d)) is amended—

12           (1) in paragraph (2), by striking “4” and insert-  
13          ing “6”; and

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

15           “(6) *TRANSFER OF FUNDS*.—

16           “(A) *IN GENERAL*.—A Governor of the State  
17          may—

18           “(i)(I) reserve up to 33 percent of a  
19          capitalization grant made under this sec-  
20          tion for a fiscal year;

21           “(II) add the funds reserved to any  
22          funds provided to the State under section  
23          601 of the Federal Water Pollution Control  
24          Act (33 U.S.C. 1381); and

1 “(III) use the funds to carry out that  
2 section; and

3 “(ii)(I) reserve in any fiscal year an  
4 amount up to the amount that may be re-  
5 served under clause (i) for that fiscal year  
6 from capitalization grants made under sec-  
7 tion 601 of that Act (33 U.S.C. 1381);

8 “(II) add the reserved funds to any  
9 funds provided to the State under this sec-  
10 tion; and

11 “(III) use the funds to carry out this  
12 section.

13 “(B) STATE MATCH.—Funds reserved under  
14 this paragraph shall not be considered to be a  
15 State match of a capitalization grant required  
16 under this section or section 602(b) of the Fed-  
17 eral Water Pollution Control Act (33 U.S.C.  
18 1382(b)).”.

## 19 **TITLE IV—WATER RESOURCE** 20 **PLANNING**

### 21 **SEC. 401. FINDINGS.**

22 Congress finds that—

23 (1) there is ever-growing demand and competi-  
24 tion for water from many segments of society, includ-

1        *ing municipal users, agriculture, and critical eco-*  
2        *systems;*

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

6            *(3) because sources of water do not follow polit-*  
7        *ical boundaries—*

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

10          *(B) it is more difficult to take action—*

11            *(i) to monitor the state of water re-*  
12        *sources;*

13            *(ii) to prepare for water shortages or*  
14        *surpluses;*

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

17            *(iv) to respond to emergency situa-*  
18        *tions;*

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

20            *(i) impact public health;*

21            *(ii) limit economic and agricultural devel-*  
22        *opment; and*

23            *(iii) damage ecosystems; and*

1           (B) the United States often suffers serious eco-  
 2           nomic and environmental losses from water shortages  
 3           or surpluses;

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

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

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

12          (B) the courts have confirmed that this is an ap-  
 13          propriate role for the States; and

14          (C) Congress should continue to defer to States  
 15          on laws (including regulations) governing the appro-  
 16          priation, distribution, and control or use of water.

17 **SEC. 402. DEFINITION OF SECRETARY.**

18          In this title, the term “Secretary” means the Secretary  
 19          of the Interior, acting through the Director of the United  
 20          States Geological Survey.

21 **SEC. 403. ACTIONS.**

22          (a) ASSESSMENT.—

23               (1) IN GENERAL.—Not later than 2 years after  
 24          the date of enactment of this Act, the Secretary shall



1       *conduct an assessment of the state of water resources*  
 2       *in the United States.*

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

5           (A) *provide indicators of the status and*  
 6       *trends of—*

7           (i) *fresh water in rivers and reservoirs;*

8           (ii) *groundwater levels and volume of*  
 9       *fresh water stored in aquifers; and*

10          (iii) *fresh water withdrawn from*  
 11       *streams and aquifers in the United States;*  
 12       *and*

13          (B) *provide those indicators for—*

14          (i) *watersheds defined by the 352 hy-*  
 15       *drologic accounting units of the United*  
 16       *States; and*

17          (ii) *major aquifers of the United*  
 18       *States, as identified by the Secretary.*

19          (3) *REPORT.—Not later than 1 year after the*  
 20       *date of completion of the assessment, and every 2*  
 21       *years thereafter, the Secretary shall submit to Con-*  
 22       *gress a report on the status of implementation of any*  
 23       *policies or procedures relating to the results of the as-*  
 24       *essment.*

25          (b) *WATER RESOURCE RESEARCH PRIORITIES.—*

1           (1) *IN GENERAL.*—*The Secretary shall coordi-*  
 2           *nate a process among Federal agencies (including the*  
 3           *Environmental Protection Agency) to develop and*  
 4           *publish, not later than 1 year after the date of enact-*  
 5           *ment of this Act, a list of water resource research pri-*  
 6           *orities that focuses on—*

7                     (A) *monitoring; and*

8                     (B) *improving the quality of the informa-*  
 9                     *tion available to State, tribal, and local water*  
 10                    *resource managers.*

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

15           (c) *INFORMATION DELIVERY SYSTEM.*—

16           (1) *IN GENERAL.*—*The Secretary shall coordi-*  
 17           *nate a process to develop an effective information de-*  
 18           *livery system to communicate information described*  
 19           *in paragraph (2) to—*

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

22                     (B) *the private sector; and*

23                     (C) *the general public.*

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

1           (A) *the results of the national water re-*  
 2           *source assessment;*

3           (B) *a summary of the Federal water re-*  
 4           *search priorities developed under subsection (b);*

5           (C) *near real-time data and other informa-*  
 6           *tion on water shortages and surpluses;*

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

10          (E) *streamlined procedures for States and*  
 11          *localities to interact with and obtain assistance*  
 12          *from Federal agencies that perform water re-*  
 13          *source functions; and*

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

16 **SEC. 404. REPORT TO CONGRESS.**

17          *Not later than 2 years after the date of enactment of*  
 18          *this Act, and every 2 years thereafter through fiscal year*  
 19          *2007, the Secretary shall submit to Congress a report on*  
 20          *the implementation of this title.*

21 **SEC. 405. AUTHORIZATION OF APPROPRIATIONS.**

22          *There is authorized to be appropriated to the Secretary*  
 23          *to carry out this title \$3,000,000 for each of fiscal years*  
 24          *2003 through 2007, to remain available until expended.*

1       ***TITLE V—MISCELLANEOUS***

2   ***SEC. 501. NUTRIENT CONTROL TECHNOLOGY GRANT PRO-***  
 3       ***GRAM.***

4       *The Federal Water Pollution Control Act (33 U.S.C.*  
 5   *1251 et seq.) is amended by adding at the end the following:*

6       ***“TITLE VII—MISCELLANEOUS***

7   ***“SEC. 701. NUTRIENT CONTROL TECHNOLOGY GRANT PRO-***  
 8       ***GRAM.***

9       *“(a) DEFINITION OF ELIGIBLE FACILITY.—In this sec-*  
 10   *tion, the term ‘eligible facility’ means a municipal waste-*  
 11   *water treatment works that, as of the date of enactment of*  
 12   *this title, has a permitted design capacity to treat an an-*  
 13   *nual average of 500,000 gallons or more of wastewater per*  
 14   *day.*

15       *“(b) GRANT PROGRAM.—*

16       *“(1) ESTABLISHMENT.—Subject to subsections*  
 17   *(c) and (d), not later than 1 year after the date of*  
 18   *enactment of this title, the Administrator shall estab-*  
 19   *lish within the Environmental Protection Agency a*  
 20   *program to provide grants to States and municipali-*  
 21   *ties to upgrade the nutrient removal technologies of el-*  
 22   *igible facilities.*

23       *“(2) PRIORITY.—In providing grants under*  
 24   *paragraph (1), the Administrator shall give priority*  
 25   *to eligible facilities at which nutrient removal tech-*

1        *nology upgrades would result in the greatest environ-*  
 2        *mental benefits.*

3                “(3) *APPLICATION.*—

4                        “(A) *IN GENERAL.*—A State or munici-  
 5                        *pality that seeks to receive a grant under this*  
 6                        *section shall submit to the Administrator an ap-*  
 7                        *plication that is in such form, and that includes*  
 8                        *such information, as the Administrator may re-*  
 9                        *quire.*

10                      “(B) *PROVISION OF ASSISTANCE.*—Subject  
 11                      *to subsections (c) and (d), on receipt and ap-*  
 12                      *proval of an application submitted under sub-*  
 13                      *paragraph (A), the Administrator shall provide*  
 14                      *to the State or municipality that submits the ap-*  
 15                      *plication a grant in an amount that does not ex-*  
 16                      *ceed the amount requested in the application.*

17                      “(4) *USE OF FUNDS.*—A State or municipality  
 18                      *that receives a grant under this section shall use the*  
 19                      *funds from the grant to upgrade the nutrient removal*  
 20                      *technologies of eligible facilities in the State or mu-*  
 21                      *nicipality to nutrient removal technologies that are*  
 22                      *designed to reduce total nitrogen in discharged waste-*  
 23                      *water to an average annual concentration of not more*  
 24                      *than 4 milligrams per liter or the limit of nutrient*

1        *removal technologies in a particular geographical*  
 2        *area, whichever is less.*

3                “(5) *COST SHARING.*—*The share of the total cost*  
 4        *of upgrading any eligible facility as described in*  
 5        *paragraph (1) using funds provided under this sec-*  
 6        *tion shall not exceed 55 percent.*

7                “(c) *AVAILABLE FUNDS.*—*The Administrator shall*  
 8        *carry out the program established under subsection (b)(1)*  
 9        *for a fiscal year only if the amount of funds made available*  
 10       *for capitalization grants under title VI for the fiscal year*  
 11       *exceeds \$1,350,000,000.*

12               “(d) *AUTHORIZATION OF APPROPRIATIONS.*—

13               “(1) *IN GENERAL.*—*There is authorized to be ap-*  
 14        *propriated to carry out this section \$100,000,000 for*  
 15        *each of fiscal years 2003 through 2007, to remain*  
 16        *available until expended.*

17               “(2) *ADMINISTRATIVE COSTS.*—*The Adminis-*  
 18        *trator may use not to exceed 4 percent of any amount*  
 19        *made available under paragraph (1) to pay adminis-*  
 20        *trative costs incurred in carrying out this section.”.*

21        **SEC. 502. EFFECTS ON POLICIES AND RIGHTS.**

22        *Nothing in this Act—*

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

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

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

8   **SEC. 503. EFFECTIVE DATE.**

9       *Except as otherwise specifically provided in this Act,*  
10   *this Act and the amendments made by this Act take effect*  
11   *on October 1, 2002.*

**Calendar No. 527**

107<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

**S. 1961**

**[Report No. 107-228]**

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**A BILL**

To improve the financial and environmental sustainability of the water programs of the United States.

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JULY 29, 2002

Reported with an amendment