

107TH CONGRESS
2D SESSION

S. 2813

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

IN THE SENATE OF THE UNITED STATES

JULY 29, 2002

Mr. SMITH of New Hampshire (for himself, Mr. CRAPO, and Mr. INHOFE) introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

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 Quality Investment Act of 2002”.

6 (b) TABLE OF CONTENTS.—The table of contents of
7 this 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.

TITLE II—SAFE DRINKING WATER ACT MODIFICATIONS

- Sec. 201. Planning, design, and preconstruction costs; use of State loan funds for security purposes.
- Sec. 202. State loan fund.
- Sec. 203. Assistance for disadvantaged communities.
- Sec. 204. Private utilities.
- Sec. 205. Technical assistance for small systems.
- Sec. 206. Authorization of appropriations.

TITLE III—INNOVATIONS IN FUND AND WATER QUALITY MANAGEMENT

- Sec. 301. Transfer of funds.
- Sec. 302. Demonstration program for water quality enhancement and management.
- Sec. 303. Rate study.
- Sec. 304. State loan fund review process.
- Sec. 305. Effects on policies and rights.

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.

1 **SEC. 2. PURPOSES.**

2 The purposes of this Act are—

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

7 (2) to maximize use of Federal funds and en-
 8 courage maximum efficiency for States and local-
 9 ities; and

10 (3) to recognize the national environmental and
 11 public health importance of maintaining the drinking

1 water and waste water infrastructure of the United
 2 States.

3 **TITLE I—FEDERAL WATER POL-**
 4 **LUTION CONTROL ACT MODI-**
 5 **FICATIONS**

6 **SEC. 101. DEFINITIONS.**

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

10 “(24) DISADVANTAGED COMMUNITY.—The
 11 term ‘disadvantaged community’ means a commu-
 12 nity or entity that meets affordability criteria estab-
 13 lished, after public review and comment, by the
 14 State in which the community or entity is located.

15 “(25) SMALL TREATMENT WORKS.—The term
 16 ‘small treatment works’ means a treatment works
 17 (as defined in section 212) serving a population of
 18 10,000 or less.”.

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

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

23 “(c) RESERVATION OF FUNDS.—

24 “(1) IN GENERAL.—For fiscal year 1987 and
 25 each fiscal year thereafter, the Administrator shall

1 reserve, before allocations to the States under sec-
 2 tion 604(a), not less than 0.5 percent nor more than
 3 1.5 percent of the funds made available under sec-
 4 tion 207.

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

10 “(A) Indian tribes;

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

14 “(C) Native villages (as defined in section
 15 3 of the Alaska Native Claims Settlement Act
 16 (43 U.S.C. 1602)).”.

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

18 (a) GRANTS TO STATES FOR ESTABLISHMENT OF
 19 REVOLVING FUNDS.—Section 601(a) of the Federal
 20 Water Pollution Control Act (33 U.S.C. 1381(a)) is
 21 amended by striking “for providing assistance (1)” and
 22 all that follows and inserting the following: “for providing
 23 assistance for eligible projects in accordance with section
 24 603(c).”.

1 (b) PROJECTS ELIGIBLE FOR ASSISTANCE.—Section
2 603 of the Federal Water Pollution Control Act (33
3 U.S.C. 1383) is amended by striking subsection (c) and
4 inserting the following:

5 “(c) PROJECTS ELIGIBLE FOR ASSISTANCE.—

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

9 “(A) providing financial assistance to a
10 municipality, intermunicipal, interstate, or
11 State agency, or private utility, for construction
12 (including costs for planning, design, associated
13 preconstruction) of treatment works (as defined
14 in section 212);

15 “(B) implementation of a management
16 program established under section 319;

17 “(C) development and implementation of a
18 conservation and management plan under sec-
19 tion 320;

20 “(D) water conservation projects or activi-
21 ties that provide a water quality benefit;

22 “(E) reuse, reclamation, or recycling
23 projects that provide a water quality benefit; or

24 “(F) improvements to the security of infra-
25 structure systems and treatment works.

1 “(2) MAINTENANCE OF FUND.—

2 “(A) IN GENERAL.—The fund shall be es-
3 tablished, maintained, and credited with repay-
4 ments.

5 “(B) AVAILABILITY.—Any balances in the
6 fund shall be available in perpetuity for pro-
7 viding financial assistance described in para-
8 graph (1).

9 “(3) APPROACHES.—Projects eligible to receive
10 assistance from a State water pollution control re-
11 volving fund under this title may include projects
12 that—

13 “(A) provide a water quality benefit; and

14 “(B) use 1 or more nontraditional ap-
15 proaches (such as low-impact development tech-
16 nologies, redevelopment of waterfront
17 brownfields, watershed management actions, de-
18 centralized wastewater treatment innovations,
19 and other nonpoint best management prac-
20 tices).”.

21 (c) EXTENSION OF LOANS; TYPES OF ASSISTANCE.—

22 Section 603(d) of the Federal Water Pollution Control Act
23 (33 U.S.C. 1383(d)) is amended—

24 (1) in paragraph (1)—

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

3 (B) by striking subparagraph (B) and in-
4 serting the following:

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

9 “(ii) except as provided in subparagraph
10 (C), each loan shall be fully amortized not later
11 than 30 years after the date of completion of
12 the project for which the loan is made;”;

13 (C) by redesignating subparagraphs (C)
14 and (D) as subparagraphs (D) and (E), respec-
15 tively;

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

18 “(C) in the case of a disadvantaged com-
19 munity, a State may provide an extended term
20 for a loan if the extended term—

21 “(i) terminates not later than the date
22 that is 30 years after the date of comple-
23 tion of the project; and

24 “(ii) does not exceed the expected de-
25 sign life of the project.”;

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

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

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

11 (3) by redesignating paragraph (7) as para-
 12 graph (8);

13 (4) by inserting after paragraph (6) the fol-
 14 lowing:

15 “(7) subject to subsection (e)(2), by a State to
 16 provide additional subsidization (including forgive-
 17 ness of principal)—

18 “(A) to 1 or more treatment works for use
 19 in developing technical, managerial, and finan-
 20 cial capacity in accordance with subsection (i);
 21 or

22 “(B) to a disadvantaged community, or to
 23 a community or entity that the State expects to
 24 experience significant financial difficulties and
 25 unaffordable rate increases in order to meet the

1 requirements of this Act (including regulations
 2 promulgated under this Act), that receives a
 3 loan from the State under this title; and”; and
 4 (5) in paragraph (8) (as redesignated by para-
 5 graph (3)), by striking “that such amounts shall not
 6 exceed 4” and inserting “that, beginning in fiscal
 7 year 2003, those amounts shall not exceed 5”.

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

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

13 “(e) LIMITATIONS.—

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

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

17 “(2) TOTAL AMOUNT OF SUBSIDIES.—For each
 18 fiscal year, the total amount of loan subsidies made
 19 by a State under subsection (d)(7) may not exceed
 20 30 percent of the amount of all capitalization grants
 21 received by the State for the fiscal year.”.

22 (e) ADDITIONAL REQUIREMENTS FOR WATER POL-
 23 LUTION CONTROL REVOLVING FUNDS.—Section 603 of
 24 the Federal Water Pollution Control Act (33 U.S.C. 1383)
 25 is amended by adding at the end the following:

1 “(i) TECHNICAL, MANAGERIAL, AND FINANCIAL CA-
2 PACITY FOR OPTIMAL PERFORMANCE.—

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

8 “(2) STRATEGY.—

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

14 “(i) attaining and maintaining tech-
15 nical, managerial, operations, maintenance,
16 and capital investments; and

17 “(ii) meeting and sustaining compli-
18 ance with applicable Federal and State
19 laws.

20 “(B) REQUIREMENTS.—In preparing the
21 strategy described in subparagraph (A), the
22 State shall consider, solicit public comment on,
23 and include in the strategy a description of the
24 manner in which the State intends to use the
25 authorities and resources of the State to assist

1 treatment works in attaining and maintaining
2 technical, managerial, and financial capacity.

3 “(3) CONDITION FOR RECEIPT OF ASSIST-
4 ANCE.—

5 “(A) IN GENERAL.—Except as provided in
6 subparagraph (B) and subsection (l), beginning
7 on the date that is 3 years after the date of en-
8 actment of this subsection, the State shall re-
9 quire each treatment works that receives, in the
10 aggregate, more than \$500,000 under this title
11 in any fiscal year to certify to the State that
12 the treatment works has adequate technical,
13 managerial, and financial capacity, including
14 the establishment and implementation by the
15 treatment works of an asset management plan
16 that—

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

19 “(ii) includes—

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

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

1 performance objectives for the treat-
2 ment works established in accordance
3 with applicable Federal and State
4 laws over the useful life of the treat-
5 ment works.

6 “(B) EXCEPTION.—Notwithstanding sub-
7 paragraph (A), a treatment works may receive
8 assistance under this title if the State deter-
9 mines that the assistance would enable the
10 treatment works to attain adequate technical,
11 managerial, and financial capacity.

12 “(j) RESTRUCTURING.—Notwithstanding section
13 204(b)(1), except as provided in subsections (k) and (l),
14 a State may provide assistance from the water pollution
15 control revolving fund of the State for a project only if
16 the recipient of the assistance certifies to the State that
17 the recipient has considered—

18 “(1) consolidating management functions or
19 ownership with another facility;

20 “(2) forming cooperative partnerships; and

21 “(3) using nonstructural alternatives or tech-
22 nologies that may be more environmentally sensitive.

23 “(k) RATE STRUCTURE.—As a condition of the re-
24 ceipt of funds for a project under this title, a recipient
25 shall certify to the State that the recipient has in effect—

1 “(1) a plan to achieve, within a reasonable pe-
 2 riod of time, a rate structure that, to the maximum
 3 extent practicable—

4 “(A) reflects the actual cost of service pro-
 5 vided by the recipient; and

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

8 “(2) not later than the date of completion of
 9 the project, an asset management plan described in
 10 subsection (i)(3).

11 “(l) EXEMPTION FOR ASSISTANCE SOLELY FOR
 12 PLANNING, DESIGN, PRECONSTRUCTION, AND SECURITY
 13 ACTIVITIES.—Subsections (i)(3) and (j) shall not apply to
 14 assistance provided under this title that is to be used by
 15 a treatment works solely for planning, design,
 16 preconstruction, or security activities.

17 “(m) TECHNICAL ASSISTANCE.—

18 “(1) DEFINITION OF QUALIFIED NONPROFIT
 19 TECHNICAL ASSISTANCE PROVIDER.—In this sub-
 20 section, the term ‘qualified nonprofit technical as-
 21 sistance provider’ means a nonprofit entity that pro-
 22 vides technical assistance (such as circuit-rider pro-
 23 grams, training, preliminary engineering evaluations,
 24 and rural community assistance programs) to treat-
 25 ment works that—

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

2 “(B) are located in a rural area.

3 “(2) GRANT PROGRAM.—

4 “(A) IN GENERAL.—The Administrator
5 may make grants to a qualified nonprofit tech-
6 nical assistance provider for use in assisting
7 small treatment works in planning, developing,
8 and obtaining financing for eligible projects de-
9 scribed in subsection (c).

10 “(B) DISTRIBUTION OF GRANTS.—In car-
11 rying out this subsection, the Administrator
12 shall ensure, to the maximum extent prac-
13 ticable, that technical assistance provided using
14 funds from a grant under subparagraph (A) is
15 made available in each State.

16 “(C) CONSULTATION.—As a condition of
17 receiving a grant under this subsection, a quali-
18 fied nonprofit technical assistance provider shall
19 consult with each State in which grant funds
20 are to be expended or otherwise made available
21 before the grant funds are expended or made
22 available in the State.

23 “(3) AUTHORIZATION OF APPROPRIATIONS.—

24 There is authorized to be appropriated to carry out

1 this subsection \$10,000,000 for each of fiscal years
2 2003 through 2007.

3 “(n) PRIORITY.—In making a loan under this section,
4 a State may give priority to a disadvantaged community.”.

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

9 “(a) FORMULA.—

10 “(1) DEFINITION OF STATE.—In this sub-
11 section, the term ‘State’ means—

12 “(A) a State; and

13 “(B) the District of Columbia.

14 “(2) ALLOCATION.—Funds made available to
15 carry out this title for each of fiscal years 2003
16 through 2006 shall be allocated by the Adminis-
17 trator in accordance with a formula that allocates to
18 each State the proportional share of the State needs
19 identified in the most recent survey conducted under
20 section 516(2), except that the minimum propor-
21 tionate share provided to each State shall be 1 per-
22 cent of available funds.

23 “(3) PRIVATE UTILITIES.—If a State elects to
24 include the needs of private utilities in a needs sur-
25 vey used to develop the allocation formula described

1 in paragraph (2), the State shall include projects of
 2 the private utilities on the list of projects of the
 3 State that are eligible to receive funds under this
 4 title for each year covered by the needs survey.”.

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

8 (1) in subsection (c), by striking paragraph (1)
 9 and inserting the following:

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

15 (2) in subsection (d)—

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

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

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

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

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

1 shall submit to the Administrator a report on the
 2 progress made in improving the technical, manage-
 3 rial, and financial capacity of treatment works in the
 4 State (including the progress of the State in com-
 5 plying with the amendments to section 603 made by
 6 the Water Investment Act of 2002).

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

10 (h) AUTHORIZATION OF APPROPRIATIONS.—The
 11 Federal Water Pollution Control Act is amended by strik-
 12 ing section 607 (33 U.S.C. 1387) and inserting the fol-
 13 lowing:

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

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

17 “(1) \$3,200,000,000 for each of fiscal years
 18 2003 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) RESERVATION FOR NEEDS SURVEYS.—Of the
 25 amount made available under subsection (a) to carry out

1 this title for a fiscal year, the Administrator may reserve
 2 not more than \$500,000 per year to pay the costs of con-
 3 ducting needs surveys under section 516(2).”.

4 (i) CONFORMING AMENDMENT.—Section 216 of the
 5 Federal Water Pollution Control Act (33 U.S.C. 1296) is
 6 amended by striking “Not less than 25 per centum” and
 7 all that follows.

8 (j) NO NEW CAUSE OF ACTION.—Nothing in this
 9 section or in any amendment made by this section estab-
 10 lishes any new cause of action, or affects any cause of
 11 action in existence as of the date of enactment of this Act,
 12 for the purposes of judicial review under the Federal
 13 Water Pollution Control Act (33 U.S.C. 1251 et seq.).

14 **TITLE II—SAFE DRINKING** 15 **WATER ACT MODIFICATIONS**

16 **SEC. 201. PLANNING, DESIGN, AND PRECONSTRUCTION** 17 **COSTS; USE OF STATE LOAN FUNDS FOR SE-** 18 **CURITY PURPOSES.**

19 Section 1452(a)(2) of the Safe Drinking Water Act
 20 (42 U.S.C. 300j–12(a)(2)) is amended—

21 (1) in the second sentence, by striking “(not”
 22 and inserting “(including planning, design, and asso-
 23 ciated preconstruction expenditures but not”; and

24 (2) in the third sentence, by inserting before
 25 the period at the end the following: “, or used by

1 any public water system for the purpose of carrying
 2 out a project or activity to increase the security of
 3 the public water system”.

4 **SEC. 202. STATE LOAN FUND.**

5 (a) IN GENERAL.—Section 1452(a)(3)(B)(ii) of the
 6 Safe Drinking Water Act (42 U.S.C. 300j–
 7 12(a)(3)(B)(ii)) is amended by inserting “and the forma-
 8 tion of regional partnerships” after “procedures”.

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

12 (1) in paragraph (1)—

13 (A) in subparagraph (B)—

14 (i) by striking “20” and inserting
 15 “30”; and

16 (ii) by striking “project, except” and
 17 all that follows and inserting the following:
 18 “project, except that in the case of a dis-
 19 advantaged community (as defined in sub-
 20 section (d)(3)), a State may provide an ex-
 21 tended term for a loan, if the extended
 22 term does not exceed the expected life of
 23 the project; and”;

24 (B) in subparagraph (C), by striking
 25 “and” at the end; and

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

2 “(E) during the planning and engineering
3 phase of each project for which the loan funds
4 are received, the recipient of the loan funds cer-
5 tifies to the State that the recipient of the loan
6 funds has considered—

7 “(i) consolidating management func-
8 tions or ownership with another facility;

9 “(ii) forming cooperative partnerships;
10 and

11 “(iii) using nonstructural alternatives
12 or technologies that may be more environ-
13 mentally sensitive; and

14 “(F) during the planning and engineering
15 phase of each project for which a recipient re-
16 ceives loan funds in excess of \$500,000, the re-
17 cipient certifies to the State that the recipient
18 has in effect—

19 “(i) a plan to achieve, within a rea-
20 sonable period of time, a rate structure
21 that, to the maximum extent practicable—

22 “(I) reflects the actual cost of
23 service provided by the recipient; and

24 “(II) addresses capital replace-
25 ment funds; and

1 “(ii) an asset management plan (for
 2 which the Administrator may provide in-
 3 formation to assist States in determining
 4 plan content) that—

5 “(I) conforms to generally ac-
 6 cepted industry practices; and

7 “(II) includes—

8 “(aa) an inventory of exist-
 9 ing assets (including an estimate
 10 of the useful life of the assets);
 11 and

12 “(bb) an optimal schedule of
 13 operations, maintenance, and
 14 capital investment required to
 15 meet and sustain performance
 16 objectives;”;

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

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

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

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

24 (c) OTHER AUTHORIZED ACTIVITIES.—Section
 25 1452(k)(1) of the Safe Drinking Water Act (42 U.S.C.

1 300j–12(k)(1)) is amended by striking subparagraph (D)
 2 and inserting the following:

3 “(D) Make expenditures for the develop-
 4 ment of source water protection programs (in-
 5 cluding wellhead protection programs under
 6 section 1428).”.

7 (d) NO NEW CAUSE OF ACTION.—Nothing in this
 8 section or in any amendment made by this section estab-
 9 lishes any new cause of action, or affects any cause of
 10 action in existence as of the date of enactment of this Act,
 11 for the purposes of judicial review under the Safe Drink-
 12 ing Water Act (42 U.S.C. 300f et seq.).

13 (e) PLANNING, DESIGN, AND SECURITY ASSIST-
 14 ANCE.—Nothing in this section or in any amendment
 15 made by this section applies to assistance provided under
 16 section 1452 of the Safe Drinking Water Act (42 U.S.C.
 17 300j–12) that is to be used solely for any planning, design,
 18 or security measure (as defined by a State in coordination
 19 with guidance issued by the Administrator of the Environ-
 20 mental Protection Agency) carried out with respect to a
 21 public water system under section 1452 of that Act.

22 **SEC. 203. ASSISTANCE FOR DISADVANTAGED COMMU-**
 23 **NITIES.**

24 Section 1452(d)(1) of the Safe Drinking Water Act
 25 (42 U.S.C. 300j–12(d)(1)) is amended by striking “to a

1 community that the State expects to become a disadvan-
 2 tagged community as the result of a proposed project” and
 3 inserting the following: “a community or entity that the
 4 State expects to experience significant financial difficulties
 5 and unaffordable rate increases in order to meet the re-
 6 quirements of this title (including regulations promulgated
 7 under this title), that receives a loan from the State under
 8 this title”.

9 **SEC. 204. PRIVATE UTILITIES.**

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

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

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

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

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

21 **SEC. 205. TECHNICAL ASSISTANCE FOR SMALL SYSTEMS.**

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

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

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

“(6) REVIEW AND EVALUATION.—

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

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

“(i) shall notify the center of the termination of the Administrator; and

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

“(7) AUTHORIZATION OF APPROPRIATIONS.—

There is authorized to be appropriated to carry out this subsection \$8,000,000 for each of fiscal years 2003 through 2007, to be distributed to the centers in 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 \$8,000,000 for each of fiscal years
 8 2003 through 2007.”.

9 **SEC. 206. 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)
 12 and 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
 18 years 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) RESERVATION FOR NEEDS SURVEYS.—Of
 2 the amount made available under paragraph (1) to
 3 carry out this section for a fiscal year, the Adminis-
 4 trator may reserve not more than \$500,000 per year
 5 to pay the costs of conducting needs surveys under
 6 subsection (h).”.

7 **TITLE III—INNOVATIONS IN**
 8 **FUND AND WATER QUALITY**
 9 **MANAGEMENT**

10 **SEC. 301. TRANSFER OF FUNDS.**

11 (a) WATER POLLUTION CONTROL FUND.—Section
 12 603 of the Federal Water Pollution Control Act (33
 13 U.S.C. 1383) (as amended by section 103(e)) is amended
 14 by adding at the end the following:

15 “(o) TRANSFER OF FUNDS.—

16 “(1) IN GENERAL.—A Governor of the State
 17 may—

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

23 “(B) reserve in any year an amount up to
 24 the amount that may be reserved under sub-
 25 paragraph (A) for that year from capitalization

1 grants made under section 1452 of that Act (42
 2 U.S.C. 300j–12) and add the reserved funds to
 3 any funds provided to the State under this title.

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

9 (b) SAFE DRINKING WATER FUND.—Section
 10 1452(g) of the Safe Drinking Water Act (42 U.S.C. 300j–
 11 12(g)) (as amended by section 202(c)) is amended—

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

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

15 “(6) TRANSFER OF FUNDS.—

16 “(A) IN GENERAL.—A Governor of the
 17 State may—

18 “(i) reserve up to 33 percent of a cap-
 19 italization grant made under this section
 20 and add the funds reserved to any funds
 21 provided to the State under section 601 of
 22 the Federal Water Pollution Control Act
 23 (33 U.S.C. 1381); and

24 “(ii) reserve in any year an amount
 25 up to the amount that may be reserved

under clause (i) for that year from capitalization grants made under section 601 of that Act (33 U.S.C. 1381) and add the reserved funds to any funds provided to the State under this section.

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

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

(a) ESTABLISHMENT.—

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

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

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

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

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

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

9 (b) SELECTION OF MUNICIPALITIES.—

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

14 (A) is developed in coordination with—

15 (i) the agency of the State having ju-
 16 risdiction over water quality or water sup-
 17 ply matters; and

18 (ii) interested stakeholders;

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

21 (C) includes a strategy under which the
 22 municipality, through participation in the dem-
 23 onstration program, could effectively—

24 (i) address those problems; and

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

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

5 (II) are mandated under—

6 (aa) the Federal Water Pol-
7 lution Control Act (33 U.S.C.
8 1251 et seq.); and

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

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

14 (2) TYPES OF PROJECTS.—In carrying out the
15 demonstration program, the Administrator may pro-
16 vide grants to municipalities to be used to carry out
17 projects relating to such matters as—

18 (A) excessive nutrient growth;

19 (B) urban or rural pressure;

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

21 (D) difficulties in water conservation and
22 efficiency;

23 (E) a lack of support tools and tech-
24 nologies to rehabilitate and replace water sup-
25 plies;

- 1 (F) a lack of monitoring and data analysis
- 2 for distribution systems;
- 3 (G) nonpoint source water pollution;
- 4 (H) sanitary sewer overflows;
- 5 (I) combined sewer overflows;
- 6 (J) problems with naturally-occurring con-
- 7 stituents of concern; or
- 8 (K) problems with erosion and excess sedi-
- 9 ment.

10 (3) RESPONSIBILITIES OF ADMINISTRATOR.—In
 11 providing grants to municipalities under this sub-
 12 section, the Administrator shall—

13 (A) ensure, to the maximum extent
 14 practicable—

15 (i) the inclusion in the demonstration
 16 program of a variety of projects with re-
 17 spect to—

- 18 (I) geographic distribution;
- 19 (II) innovative technologies used
- 20 for the projects; and
- 21 (III) nontraditional approaches
- 22 (including low-impact development
- 23 technologies) used for the projects;
- 24 and

1 (ii) that each category of project de-
2 scribed in paragraph (2) is adequately rep-
3 resented;

4 (B) give higher priority to projects that—

5 (i) address multiple problems; and

6 (ii) are regionally applicable;

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

11 (D) ensure that, for each fiscal year, no
12 municipality receives more than 25 percent of
13 the total amount of funds made available for
14 the fiscal year to provide grants under this sec-
15 tion.

16 (4) COST SHARING.—

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

21 (B) WAIVER.—The Administrator may re-
22 duce or eliminate the non-Federal share of the
23 cost of a project for reasons of affordability.

24 (c) REPORTS.—

1 (1) REPORTS FROM GRANT RECIPIENTS.—A re-
2 recipient of a grant under this section shall submit to
3 the Administrator, on the date of completion of a
4 project using funds from the grant, and on the date
5 that is 3 years after that date, a report that de-
6 scribes the effectiveness of the project.

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

16 (d) INCORPORATION OF RESULTS AND INFORMA-
17 TION.—To the maximum extent practicable, the Adminis-
18 trator shall incorporate the results of, and information ob-
19 tained from, successful projects under this section into
20 programs administered by the Administrator.

21 (e) AUTHORIZATION OF APPROPRIATIONS.—There is
22 authorized to be appropriated to carry out this section
23 \$20,000,000 for each of fiscal years 2003 through 2007.

1 **SEC. 303. RATE STUDY.**

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

8 (b) REQUIRED ELEMENTS.—

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

10 (A) determine whether public water system
11 and treatment works rates for communities in-
12 cluded in the study adequately address the cost
13 of service, including funds necessary to replace
14 infrastructure;

15 (B) identify the manner in which the pub-
16 lic water system and treatment works rates
17 were determined;

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

20 (D)(i) survey existing practices for estab-
21 lishing public water system and treatment
22 works rates; and

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

1 (E) describe best industry practices for
2 public water systems and treatment works for
3 use in establishing a rate structure that—

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

6 (ii) takes into consideration the needs
7 of disadvantaged individuals and commu-
8 nities; and

9 (F) assess how communities use incentive-
10 based fees—

11 (i) to reduce the quantity of water
12 used by ratepayers; or

13 (ii) to reduce the quantity of pollut-
14 ants or contaminants in sewage or
15 stormwater generated by ratepayers.

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

18 (A) identify existing standards for afford-
19 ability;

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

22 (C) determine the manner in which afford-
23 ability varies with respect to communities of
24 different sizes and in different regions; and

1 (D) determine the extent to which afford-
2 ability affects the decision of a community to
3 increase public water system and treatment
4 works rates (including the decision relating to
5 the percentage by which those rates should be
6 increased).

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

9 (A) survey a cross-section of States rep-
10 resenting different sizes, demographics, and
11 geographical regions;

12 (B) describe, for each State described in
13 subparagraph (A), the definition of “disadvan-
14 taged community” used in the State in carrying
15 out projects and activities under the Safe
16 Drinking Water Act (42 U.S.C. 300f et seq.);

17 (C) review other means of identifying the
18 meaning of the term “disadvantaged”, as that
19 term applies to communities;

20 (D) determine which factors and character-
21 istics are required for a community to be con-
22 sidered “disadvantaged”; and

23 (E) evaluate the degree to which factors
24 such as a reduction in the tax base over a pe-
25 riod of time, a reduction in population, the loss

1 of an industrial base, and the existence of areas
2 of concentrated poverty are taken into account
3 in determining whether a community is a dis-
4 advantaged community.

5 (c) SELECTION OF COMMUNITIES.—The National
6 Academy of Sciences shall select communities, the public
7 water system and treatment works rate structures of
8 which are to be studied under this section, that include
9 a cross section of communities representing various popu-
10 lations, income levels, demographics, and geographical re-
11 gions.

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

16 (e) AUTHORIZATION OF APPROPRIATIONS.—There is
17 authorized to be appropriated to carry out this section
18 \$2,000,000 for each of fiscal years 2003 and 2004.

19 **SEC. 304. STATE LOAN FUND REVIEW PROCESS.**

20 As soon as practicable after the date of enactment
21 of this Act, the Administrator of the Environmental Pro-
22 tection Agency shall—

23 (1) consult with States, treatment works, and
24 public water systems to identify ways to streamline

1 and improve the application and review process for
2 the provision of assistance from—

3 (A) the State water pollution revolving
4 fund under title VI of the Federal Water Pollu-
5 tion Control Act (33 U.S.C. 1381 et seq.); and

6 (B) the State drinking water revolving
7 fund under section 1452 of the Safe Drinking
8 Water Act (42 U.S.C. 300j–12); and

9 (2) submit to Congress a report that, based on
10 the information identified under paragraph (1), con-
11 tains recommendations for streamlining and improv-
12 ing the application and review process described in
13 that paragraph.

14 **SEC. 305. EFFECTS ON POLICIES AND RIGHTS.**

15 (a) IN GENERAL.—Nothing in this Act—

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

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

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

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

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

7 (2) Congress delegates to each State the au-
 8 thority to regulate water of the State, including the
 9 authority to regulate water in interstate commerce
 10 (including regulation of usufructuary rights, trade,
 11 and transportation); and

12 (3) the United States, and any agency or officer
 13 on behalf of the United States, may exercise man-
 14 agement and control over water in a State only in
 15 compliance with the laws of the State in which the
 16 water is located.

17 **TITLE IV—WATER RESOURCE** 18 **PLANNING**

19 **SEC. 401. FINDINGS.**

20 Congress finds that—

21 (1) there is ever-growing demand and competi-
 22 tion for water from many segments of society, in-
 23 cluding municipal users, agriculture, and critical eco-
 24 systems;

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

4 (3) because sources of water do not follow polit-
5 ical boundaries—

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

8 (B) it is more difficult to take action—

9 (i) to monitor the state of water re-
10 sources;

11 (ii) to prepare for water shortages or
12 surpluses;

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

15 (iv) to respond to emergency situa-
16 tions;

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

18 (i) impact public health;

19 (ii) limit economic and agricultural devel-
20 opment; and

21 (iii) damage ecosystems; and

22 (B) the United States often suffers serious eco-
23 nomic and environmental losses from water short-
24 ages or surpluses;

1 (5) there is no national policy to ensure an inte-
2 grated and coordinated Federal strategy to monitor
3 the state of the water resources of the United
4 States;

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

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

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

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

15 **SEC. 402. DEFINITION OF SECRETARY.**

16 In this title, the term “Secretary” means the Sec-
17 retary of the Interior, acting through the Director of the
18 United States Geological Survey.

19 **SEC. 403. ACTIONS.**

20 (a) ASSESSMENT.—

21 (1) IN GENERAL.—Not later than 2 years after
22 the date of enactment of this Act and periodically
23 thereafter, the Secretary shall conduct an assess-
24 ment of the state of water resources in the United
25 States.

1 (2) COMPONENTS.—An assessment under para-
2 graph (1) shall, at a minimum, determine the status
3 and trends of—

4 (A) fresh water in waterways and res-
5 ervoirs;

6 (B)(i) groundwater; and

7 (ii) fresh water stored in aquifers; and

8 (C) withdrawals of fresh water from water-
9 ways and aquifers.

10 (3) REPORT.—On completion of each assess-
11 ment under paragraph (1), the Secretary shall sub-
12 mit to Congress a report that describes the results
13 of the assessment.

14 (b) WATER RESOURCE RESEARCH PRIORITIES.—

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

21 (A) monitoring; and

22 (B) improving the quality of the informa-
23 tion available to State, tribal, and local water
24 resource managers.

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

5 (c) INFORMATION DELIVERY SYSTEM.—

6 (1) IN GENERAL.—The Secretary shall coordi-
 7 nate a process to develop an effective information
 8 delivery system to communicate information de-
 9 scribed in paragraph (2) to—

10 (A) decisionmakers at the Federal, re-
 11 gional, State, tribal, and local levels;

12 (B) the private sector; and

13 (C) the general public.

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

16 (A) the results of the national water re-
 17 source assessment;

18 (B) a summary of the Federal water re-
 19 search priorities developed under subsection (b);

20 (C) near real-time data and other informa-
 21 tion on water shortages and surpluses;

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

1 (E) streamlined procedures for States and
2 localities to interact with and obtain assistance
3 from Federal agencies that perform water re-
4 source functions; and
5 (F) other materials, as determined by the
6 Secretary.

7 **SEC. 404. REPORT TO CONGRESS.**

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

12 **SEC. 405. AUTHORIZATION OF APPROPRIATIONS.**

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

○