

109<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

# S. 689

To amend the Safe Drinking Water Act to establish a program to provide assistance to small communities for use in carrying out projects and activities necessary to achieve or maintain compliance with drinking water standards.

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## IN THE SENATE OF THE UNITED STATES

APRIL 4, 2005

Mr. DOMENICI (for himself, Mr. BINGAMAN, and Mr. HAGEL) introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

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## A BILL

To amend the Safe Drinking Water Act to establish a program to provide assistance to small communities for use in carrying out projects and activities necessary to achieve or maintain compliance with drinking water standards.

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.**

4       This Act may be cited as the “Community Drinking  
5       Water Assistance Act”.

6       **SEC. 2. FINDINGS.**

7       Congress finds that—

1           (1) drinking water standards proposed and in  
2 effect as of the date of enactment of this Act will  
3 place a large financial burden on many public water  
4 systems, especially those public water systems in  
5 rural communities serving small populations;

6           (2) the limited scientific, technical, and profes-  
7 sional resources available in small communities com-  
8 plicate the implementation of regulatory require-  
9 ments;

10          (3) small communities often cannot afford to  
11 meet water quality standards because of the ex-  
12 penses associated with upgrading public water sys-  
13 tems and training personnel to operate and maintain  
14 the public water systems;

15          (4) small communities do not have a tax base  
16 for dealing with the costs of upgrading their public  
17 water systems;

18          (5) small communities face high per capita  
19 costs in improving drinking water quality;

20          (6) small communities would greatly benefit  
21 from a grant program designed to provide funding  
22 for water quality projects;

23          (7) as of the date of enactment of this Act,  
24 there is no Federal program in effect that ade-  
25 quately meets the needs of small, primarily rural

1 communities with respect to public water systems;  
 2 and

3 (8) since new, more protective arsenic drinking  
 4 water standards proposed by the Clinton and Bush  
 5 administrations, respectively, are expected to be im-  
 6 plemented in 2006, the grant program established  
 7 by the amendment made by this Act should be im-  
 8 plemented in a manner that ensures that the imple-  
 9 mentation of those new standards is not delayed.

10 **SEC. 3. ASSISTANCE FOR SMALL PUBLIC WATER SYSTEMS.**

11 (a) DEFINITION OF INDIAN TRIBE.—Section  
 12 1401(14) of the Safe Drinking Water Act (42 U.S.C.  
 13 300f(14)) is amended in the second sentence by striking  
 14 “1452,” and inserting “1452 and part G,”.

15 (b) ESTABLISHMENT OF PROGRAM.—The Safe  
 16 Drinking Water Act (42 U.S.C. 300f et seq.) is amended  
 17 by adding at the end the following:

18 **“PART G—ASSISTANCE FOR SMALL PUBLIC**

19 **WATER SYSTEMS**

20 **“SEC. 1471. DEFINITIONS.**

21 “In this part:

22 “(1) ELIGIBLE ACTIVITY.—

23 “(A) IN GENERAL.—The term ‘eligible ac-  
 24 tivity’ means a project or activity concerning a  
 25 small public water system that is carried out by

1 an eligible entity to comply with drinking water  
2 standards.

3 “(B) INCLUSIONS.—The term ‘eligible ac-  
4 tivity’ includes—

5 “(i) obtaining technical assistance;  
6 and

7 “(ii) training and certifying operators  
8 of small public water systems.

9 “(C) EXCLUSION.—The term ‘eligible ac-  
10 tivity’ does not include any project or activity to  
11 increase the population served by a small public  
12 water system, except to the extent that the Ad-  
13 ministrator determines such a project or activ-  
14 ity to be necessary to—

15 “(i) achieve compliance with a na-  
16 tional primary drinking water regulation;  
17 and

18 “(ii) provide a water supply to a pop-  
19 ulation that, as of the date of enactment of  
20 this part, is not served by a safe public  
21 water system.

22 “(2) ELIGIBLE ENTITY.—The term ‘eligible en-  
23 tity’ means a small public water system that—

24 “(A) is located in a State or an area gov-  
25 erned by an Indian Tribe; and

1           “(B)(i) if located in a State, serves a com-  
2           munity that, under affordability criteria estab-  
3           lished by the State under section 1452(d)(3), is  
4           determined by the State to be—

5                   “(I) a disadvantaged community; or

6                   “(II) a community that may become a  
7           disadvantaged community as a result of  
8           carrying out an eligible activity; or

9           “(ii) if located in an area governed by an  
10          Indian Tribe, serves a community that is deter-  
11          mined by the Administrator, under affordability  
12          criteria published by the Administrator under  
13          section 1452(d)(3) and in consultation with the  
14          Secretary, to be—

15                   “(I) a disadvantaged community; or

16                   “(II) a community that the Adminis-  
17          trator expects to become a disadvantaged  
18          community as a result of carrying out an  
19          eligible activity.

20          “(3) PROGRAM.—The term ‘Program’ means  
21          the small public water assistance program estab-  
22          lished under section 1472(a).

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

1           “(5) SMALL PUBLIC WATER SYSTEM.—The  
 2 term ‘small public water system’ means a public  
 3 water system (including a community water system  
 4 and a noncommunity water system) that serves—

5                   “(A) a community with a population of not  
 6 more than 200,000 individuals; or

7                   “(B) a public water system located in—

8                           “(i) Bernalillo or Sandoval County,  
 9 New Mexico;

10                           “(ii) Scottsdale, Arizona;

11                           “(iii) Mesquite or Washoe County,  
 12 Nevada; or

13                           “(iv) El Paso County, Texas.

14 **“SEC. 1472. SMALL PUBLIC WATER SYSTEM ASSISTANCE**  
 15 **PROGRAM.**

16           “(a) ESTABLISHMENT.—

17                   “(1) IN GENERAL.—Not later than 1 year after  
 18 the date of enactment of this part, the Adminis-  
 19 trator shall establish a program to provide grants to  
 20 eligible entities for use in carrying out projects and  
 21 activities to comply with drinking water standards.

22                   “(2) PRIORITY.—Subject to paragraph (3), the  
 23 Administrator shall award grants under the Pro-  
 24 gram to eligible entities based on—

1           “(A) first, the financial need of the com-  
2           munity for the grant assistance, as determined  
3           by the Administrator; and

4           “(B) second, with respect to the commu-  
5           nity in which the eligible entity is located, the  
6           per capita cost of complying with drinking  
7           water standards, as determined by the Adminis-  
8           trator.

9           “(3) SMALL COMMUNITIES.—In making grants  
10          under this section, the Administrator shall ensure  
11          that not less than 20 percent of grant funds pro-  
12          vided for each fiscal year are used to carry out eligi-  
13          ble activities in communities with a population of  
14          less than 50,000 individuals.

15          “(b) APPLICATION PROCESS.—

16               “(1) IN GENERAL.—An eligible entity that  
17               seeks to receive a grant under the Program shall  
18               submit to the Administrator, on such form as the  
19               Administrator shall prescribe (not to exceed 3 pages  
20               in length), an application to receive the grant.

21               “(2) COMPONENTS.—The application shall in-  
22               clude—

23                       “(A) a description of the eligible activities  
24                       for which the grant is needed;

1           “(B) a description of the efforts made by  
2           the eligible entity, as of the date of submission  
3           of the application, to comply with drinking  
4           water standards; and

5           “(C) any other information required to be  
6           included by the Administrator.

7           “(3) REVIEW AND APPROVAL OF APPLICA-  
8           TIONS.—

9           “(A) IN GENERAL.—On receipt of an ap-  
10          plication under paragraph (1), the Adminis-  
11          trator shall forward the application to the  
12          Council.

13          “(B) APPROVAL OR DISAPPROVAL.—Not  
14          later than 90 days after receiving the rec-  
15          ommendations of the Council under subsection  
16          (e) concerning an application, after taking into  
17          consideration the recommendations, the Admin-  
18          istrator shall—

19                  “(i) approve the application and  
20                  award a grant to the applicant; or

21                  “(ii) disapprove the application.

22          “(C) RESUBMISSION.—If the Adminis-  
23          trator disapproves an application under sub-  
24          paragraph (B)(ii), the Administrator shall—

1                   “(i) inform the applicant in writing of  
2                   the disapproval (including the reasons for  
3                   the disapproval); and

4                   “(ii) provide to the applicant a dead-  
5                   line by which the applicant may revise and  
6                   resubmit the application.

7                   “(c) COST SHARING.—

8                   “(1) IN GENERAL.—Except as provided in para-  
9                   graph (2), the Federal share of the cost of carrying  
10                  out an eligible activity using funds from a grant pro-  
11                  vided under the Program shall not exceed 90 per-  
12                  cent.

13                  “(2) WAIVER.—The Administrator may waive  
14                  the requirement to pay the non-Federal share of the  
15                  cost of carrying out an eligible activity using funds  
16                  from a grant provided under the Program if the Ad-  
17                  ministrator determines that an eligible entity is un-  
18                  able to pay, or would experience significant financial  
19                  hardship if required to pay, the non-Federal share.

20                  “(d) ENFORCEMENT AND IMPLEMENTATION OF  
21                  STANDARDS.—

22                  “(1) IN GENERAL.—Subject to paragraph (2),  
23                  the Administrator shall not enforce any standard for  
24                  drinking water under this Act (including a regula-  
25                  tion promulgated under this Act) against an eligible

1 entity during the period beginning on the date on  
2 which the eligible entity submits an application for  
3 a grant under the Program and ending, as applica-  
4 ble, on—

5 “(A) the deadline specified in subsection  
6 (b)(3)(C)(ii), if the application is disapproved  
7 and not resubmitted; or

8 “(B) the date that is 3 years after the date  
9 on which the eligible entity receives a grant  
10 under this part, if the application is approved.

11 “(2) ARSENIC STANDARDS.—No standard for  
12 arsenic in drinking water promulgated under this  
13 Act (including a standard in any regulation promul-  
14 gated before the date of enactment of this part)  
15 shall be implemented or enforced by the Adminis-  
16 trator in any State until the earlier of January 1,  
17 2006 or such date as the Administrator certifies to  
18 Congress that—

19 “(A) the Program has been implemented  
20 in the State; and

21 “(B) the State has made substantial  
22 progress, as determined by the Administrator in  
23 consultation with the Governor of the State, in  
24 complying with drinking water standards under  
25 this Act.

1 “(e) ROLE OF COUNCIL.—The Council shall—

2 “(1) review applications for grants from eligible  
3 entities received by the Administrator under sub-  
4 section (b);

5 “(2) for each application, recommend to the  
6 Administrator whether the application should be ap-  
7 proved or disapproved; and

8 “(3) take into consideration priority lists devel-  
9 oped by States for the use of drinking water treat-  
10 ment revolving loan funds under section 1452.

11 **“SEC. 1473. AUTHORIZATION OF APPROPRIATIONS.**

12 “There is authorized to be appropriated to carry out  
13 this part \$1,900,000,000 for each of fiscal years 2006  
14 through 2011.”.

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