

107<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# S. 1961

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, and Mr. SMITH of New Hampshire) 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 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”.

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.
- Sec. 202. State Revolving Loan Fund.
- Sec. 203. Additional subsidization.
- Sec. 204. Private utilities.
- Sec. 205. Competition requirements.
- Sec. 206. Technical assistance for small systems.
- Sec. 207. 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. 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 streamline State water pollution control  
8       assistance programs and State drinking water treat-  
9       ment assistance programs to maximize use of Fed-  
10      eral funds and encourage maximum efficiency for  
11      States and localities;

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

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

6 **TITLE I—FEDERAL WATER POL-**  
7 **LUTION CONTROL ACT MODI-**  
8 **FICATIONS**

9 **SEC. 101. DEFINITIONS.**

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

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

18           “(25) **SMALL TREATMENT WORKS.**—The term  
19 ‘small treatment works’ means a treatment works  
20 (as defined in section 212) serving a population of  
21 10,000 or less.”.

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

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

1 “(c) RESERVATION OF FUNDS.—

2 “(1) IN GENERAL.—For fiscal year 1987 and  
3 each fiscal year thereafter, the Administrator shall  
4 reserve, before allotments to the States under sec-  
5 tion 604(a), not less than 0.5 percent nor more than  
6 1.5 percent of the funds made available under sec-  
7 tion 207.

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

13 “(A) Indian tribes;

14 “(B) former Indian reservations in Okla-  
15 homa (as determined by the Secretary of the  
16 Interior); and

17 “(C) Native villages (as defined in section  
18 3 of the Alaska Native Claims Settlement Act  
19 (43 U.S.C. 1602)).”.

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

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

1 assistance for eligible projects in accordance with section  
2 603(e).”.

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

7 “(c) PROJECTS ELIGIBLE FOR ASSISTANCE.—

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

11 “(A) providing financial assistance to a  
12 municipality, intermunicipal, interstate, or  
13 State agency, or private utility, for construction  
14 (including costs for planning, design, associated  
15 preconstruction, and necessary activities for  
16 siting the facility and related elements) of treat-  
17 ment works (as defined in section 212);

18 “(B) implementation of a management  
19 program established under section 319;

20 “(C) development and implementation of a  
21 conservation and management plan under sec-  
22 tion 320;

23 “(D) water conservation projects or activi-  
24 ties that provide 1 or more water quality bene-  
25 fits; or

1           “(E) reuse, reclamation, or recycling  
2 projects that provide 1 or more water quality  
3 benefits.

4           “(2) MAINTENANCE OF FUND.—

5           “(A) IN GENERAL.—The fund shall be es-  
6 tablished, maintained, and credited with repay-  
7 ments.

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

12           “(3) APPROACHES.—Projects eligible to receive  
13 assistance from a State water pollution control re-  
14 volving fund under this title may include projects  
15 that use 1 or more nontraditional approaches (such  
16 as land conservation, low-impact development tech-  
17 nologies, redevelopment of waterfront brownfields,  
18 watershed management actions, decentralized waste-  
19 water treatment innovations, and other nonpoint  
20 best management practices).”.

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 20 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 (10);

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

20               “(8) by a State to provide additional subsidiza-  
21               tion (including forgiveness of principal) to 1 or more  
22               treatment works for a purpose other than a purpose  
23               specified in paragraph (7) or (9), except that—

24                       “(A) for the first fiscal year that begins  
25                       after the date of enactment of this paragraph



1 and each fiscal year thereafter, the total  
2 amount of subsidization provided by a State  
3 under this paragraph shall not exceed 15 per-  
4 cent of the amount of all capitalization grants  
5 received by the State for the fiscal year;

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

18 “(C) a community that receives assistance  
19 as a disadvantaged community under paragraph  
20 (9) shall not be eligible for assistance under  
21 this paragraph;

22 “(9) subject to subsection (e)(2), by the State  
23 to provide additional subsidization (including for-  
24 giveness of principal) to a disadvantaged community,  
25 or to a community or entity that the State expects

1 to become a disadvantaged community as the result  
2 of a proposed project, that receives a loan from the  
3 State under this title; and”;

4 (5) in paragraph (10) (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”;

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 paragraphs (7) and (9) of sub-  
20 section (d) may not exceed 30 percent of the amount  
21 of all capitalization grants received by the State for  
22 the fiscal year.”.

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

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

3 “(1) IN GENERAL.—A State may”;

4 (2) by striking “320 of this Act.” and inserting  
5 “320.”; and

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

7 “(2) COMMUNITY DEVELOPMENT.—A State  
8 that provides financial assistance from the water  
9 pollution control revolving fund of the State shall en-  
10 sure that applicants for the assistance consult and  
11 coordinate with, as appropriate, agencies responsible  
12 for developing any—

13 “(A) local land use plans;

14 “(B) regional transportation improvement  
15 and long-range transportation plans; and

16 “(C) State, regional, and municipal water-  
17 shed plans.”.

18 (f) PRIORITY SYSTEM REQUIREMENT.—Section 603  
19 of the Federal Water Pollution Control Act (33 U.S.C.  
20 1383) is amended by striking subsection (g) and inserting  
21 the following:

22 “(g) PRIORITY SYSTEM REQUIREMENT.—

23 “(1) DEFINITION OF STATE AGENCY.—In this  
24 subsection, the term ‘State agency’ means the agen-  
25 cy of a State having jurisdiction over water quality

1 management (including the establishment of water  
2 quality standards).

3 “(2) DEVELOPMENT.—

4 “(A) IN GENERAL.—Notwithstanding sec-  
5 tion 216, each State agency shall develop and  
6 periodically update a project priority system for  
7 use in prioritizing projects that are eligible to  
8 receive funding from the water pollution control  
9 revolving fund of the State in accordance with  
10 subsection (c).

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

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

15 “(ii) provide for public notice and op-  
16 portunity for comment, including signifi-  
17 cant public outreach.

18 “(3) SUMMARY OF PROJECTS.—

19 “(A) IN GENERAL.—Each State agency,  
20 after public notice and opportunity for com-  
21 ment, shall biennially publish a summary of  
22 projects in the State that are eligible for assist-  
23 ance under this title.

24 “(B) INCLUSIONS.—The summary under  
25 subparagraph (A) shall include—

1                   “(i) the priority assigned to each  
2                   project under the priority system of the  
3                   State developed under paragraph (2); and

4                   “(ii) the funding schedule for each  
5                   project, to the extent that such information  
6                   is available.

7                   “(4) STATEMENT OF POLICY.—It is the policy  
8                   of Congress that projects in a State that are carried  
9                   out using assistance provided under this title shall  
10                  be funded, to the maximum extent practicable,  
11                  through a project priority system of the State that,  
12                  in the estimation of the State, is designed to achieve  
13                  optimum water quality management, consistent with  
14                  the public health and water quality goals and re-  
15                  quirements of this Act.”.

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

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

22                  “(1) DEFINITION OF STATE AGENCY.—In this  
23                  subsection, the term ‘State agency’ has the meaning  
24                  given the term in subsection (g)(1).

25                  “(2) STRATEGY.—

1           “(A) IN GENERAL.—Not later than 3 years  
2 after the date of enactment of this subsection,  
3 each State agency shall implement a strategy to  
4 assist treatment works in the State receiving  
5 assistance under this title in—

6                   “(i) attaining and maintaining tech-  
7 nical, managerial, operations, maintenance,  
8 and capital investments; and

9                   “(ii) meeting and sustaining compli-  
10 ance with applicable Federal and State  
11 laws.

12           “(B) REQUIREMENTS.—In preparing the  
13 strategy described in subparagraph (A), the  
14 State shall consider, solicit public comment on,  
15 and include in the strategy—

16                   “(i) a description of the institutional,  
17 regulatory, financial, tax, or legal factors  
18 at the Federal, State, and local levels that  
19 encourage or impair the development of  
20 technical, managerial, and financial capac-  
21 ity; and

22                   “(ii) a description of the manner in  
23 which the State intends to use the authori-  
24 ties and resources of the State to assist  
25 treatment works in attaining and main-

1           taining technical, managerial, and financial  
2           capacity.

3           “(3) DETERMINATION BY ADMINISTRATOR.—

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

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

11                   “(B) permit the State a 1-year period, be-  
12                  ginning on the date on which funds are with-  
13                  held under subparagraph (A), during which the  
14                  State may implement a strategy in accordance  
15                  with paragraph (2).

16           “(4) REALLOTMENT OF FUNDS.—

17                   “(A) IN GENERAL.—If, after the 1-year  
18                  period described in paragraph (3)(B), the Ad-  
19                  ministrator is not satisfied that a State has car-  
20                  ried out adequate corrective action relating to  
21                  the development and implementation of a strat-  
22                  egy required under paragraph (2), the Adminis-  
23                  trator shall reallocate all funds of the State with-  
24                  held by the Administrator as of that date in ac-  
25                  cordance with subparagraph (B).

1           “(B) REQUIREMENTS FOR REALLOT-  
2           MENT.—The Administrator shall reallocate funds  
3           under subparagraph (A)—

4                   “(i) only to States that the Adminis-  
5                   trator determines to be in compliance with  
6                   this subsection; and

7                   “(ii) in the same ratio provided under  
8                   the most recent formula for the allotment  
9                   of funds under this title.

10           “(5) CONDITION FOR RECEIPT OF ASSIST-  
11           ANCE.—

12                   “(A) IN GENERAL.—Except as provided in  
13                   subparagraph (B) and subsection (k), beginning  
14                   on the date that is 3 years after the date of en-  
15                   actment of this subsection, the State shall re-  
16                   quire each treatment works that receives signifi-  
17                   cant assistance under this title to demonstrate  
18                   adequate technical, managerial, and financial  
19                   capacity, including the establishment and imple-  
20                   mentation by the treatment works of an asset  
21                   management plan (for which the Administrator  
22                   may publish information to assist States in de-  
23                   termining required content) that—

24                           “(i) conforms to generally accepted in-  
25                           dustry practices; and



1 “(ii) includes—

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

5 “(II) an optimal schedule of op-  
6 erations, maintenance, and capital in-  
7 vestment required to meet and sustain  
8 performance objectives for the treat-  
9 ment works established in accordance  
10 with applicable Federal and State  
11 laws over the useful life of the treat-  
12 ment works.

13 “(B) EXCEPTION.—Notwithstanding sub-  
14 paragraph (A), a treatment works may receive  
15 assistance under this title if the State deter-  
16 mines that the assistance would enable the  
17 treatment works to attain adequate technical,  
18 managerial, and financial capacity.

19 “(j) RESTRUCTURING.—Notwithstanding section  
20 204(b)(1), except as provided in subsection (k), a State  
21 may provide assistance from the water pollution control  
22 revolving fund of the State for a project only if the recipi-  
23 ent of the assistance—

24 “(1) has considered—

1           “(A) consolidating management functions  
2 or ownership with another facility;

3           “(B) forming public-private partnerships  
4 or other cooperative partnerships; and

5           “(C) using nonstructural alternatives or  
6 technologies that may be more environmentally  
7 sensitive; and

8           “(2) has in effect a plan to achieve, within a  
9 reasonable period of time, a rate structure that, to  
10 the maximum extent practicable—

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

13           “(B) addresses capital replacement funds;  
14 and

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

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

24           “(l) TECHNICAL ASSISTANCE.—

1           “(1) DEFINITION OF QUALIFIED NONPROFIT  
2 TECHNICAL ASSISTANCE PROVIDER.—In this sub-  
3 section, the term ‘qualified nonprofit technical as-  
4 sistance provider’ means a nonprofit entity that pro-  
5 vides technical assistance (such as circuit-rider pro-  
6 grams, training, and preliminary engineering evalua-  
7 tions) to small 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 for use in assisting  
14 small treatment works in planning, developing,  
15 and obtaining financing for eligible projects de-  
16 scribed in subsection (c).

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

23                   “(C) CONSULTATION.—As a condition of  
24 receiving a grant under this subsection, a quali-  
25 fied nonprofit technical assistance provider shall

1           consult with each State in which grant funds  
2           are to be expended or otherwise made available  
3           before the grant funds are expended or made  
4           available in the State.

5           “(3) AUTHORIZATION OF APPROPRIATIONS.—

6           There is authorized to be appropriated to carry out  
7           this subsection \$7,000,000 for each of fiscal years  
8           2003 through 2007.

9           “(m) COMPETITION REQUIREMENTS.—

10           “(1) IN GENERAL.—The requirements described  
11           in section 204(a)(6) shall apply to each specification  
12           for bids for projects receiving assistance under this  
13           title.

14           “(2) SINGLE BIDS.—Nothing in this subsection  
15           prohibits a recipient of assistance under this title  
16           that receives only 1 bid for a project described in  
17           paragraph (1) from accepting the bid and carrying  
18           out the project.

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

22           (h) ALLOTMENT OF FUNDS.—Section 604(a) of the  
23           Federal Water Pollution Control Act (33 U.S.C. 1384(a))  
24           is amended by striking subsection (a) and inserting the  
25           following:

1       “(a) FORMULA.—

2               “(1) ALLOCATION.—

3                       “(A) IN GENERAL.—Except as provided in  
4                       paragraph (2) and subject to subsection (b),  
5                       funds made available to carry out this title for  
6                       each of fiscal years 2003 through 2006 shall be  
7                       allocated by the Administrator as follows:

8                               “(i) AMOUNTS OF \$1,350,000,000 OR  
9                               LESS.—\$1,350,000,000 (or, if the total  
10                              amount made available for the fiscal year  
11                              is less than that amount, the total amount  
12                              made available) shall be allocated in ac-  
13                              cordance with a formula that allocates to  
14                              each State the proportional share of the  
15                              State needs identified in the most recent  
16                              survey conducted under section 516(2), ex-  
17                              cept that the minimum proportionate share  
18                              provided to each State shall be 1.1 percent  
19                              of available funds.

20                              “(ii)            AMOUNTS            BETWEEN  
21                              \$1,350,000,000 AND \$1,550,000,000.—Amounts  
22                              greater than \$1,350,000,000 but less than  
23                              \$1,550,000,000 made available for the fis-  
24                              cal year shall be allocated by the Adminis-  
25                              trator in accordance with a formula that

1 allocates to each State a proportionate  
2 share equal to the difference between—

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

5 “(II) the amount that the State  
6 would have received under section  
7 205(c);

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

12 “(iii) AMOUNTS GREATER THAN  
13 \$1,550,000,000.—Any amounts equal to or  
14 greater than \$1,550,000,000 that are  
15 made available for the fiscal year shall be  
16 allocated in accordance with a formula that  
17 allocates to each State the proportional  
18 share of the State needs identified in the  
19 most recent survey conducted under sec-  
20 tion 516(2), except that the minimum pro-  
21 portionate share provided to each State  
22 shall be 1.1 percent of available funds.

23 “(B) SUBSEQUENT FISCAL YEARS.—For  
24 fiscal year 2007 and each fiscal year thereafter,  
25 funds shall be allocated in accordance with a

1 formula that allocates to each State the propor-  
2 tional share of the State needs identified in the  
3 most recent survey conducted pursuant to sec-  
4 tion 516(2), except that the minimum propor-  
5 tionate share provided to each State shall be 1  
6 percent of available funds.

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

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

16 (1) in subsection (c)—

17 (A) by inserting “(including significant  
18 public outreach)” after “review”; and

19 (B) by striking paragraph (1) and insert-  
20 ing the following:

21 “(1) a summary of the priority projects devel-  
22 oped under section 603(g) for which the State in-  
23 tends to provide assistance from the water pollution  
24 control revolving fund of the State for the year cov-  
25 ered by the plan;”; and

1 (2) in subsection (d)—

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

4 (B) by striking “Beginning the” and in-  
5 serting the following:

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

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

8 “(2) REPORT ON TECHNICAL, MANAGERIAL,  
9 AND FINANCIAL CAPACITY.—Not later than 2 years  
10 after the date on which a State first adopts a strat-  
11 egy in accordance with section 603(j)(2), and annu-  
12 ally thereafter, the State shall submit to the Admin-  
13 istrator a report on the progress made in improving  
14 the technical, managerial, and financial capacity of  
15 treatment works in the State (including the progress  
16 of the State in complying with the amendments to  
17 section 603 made by the Water Investment Act of  
18 2002).

19 “(3) AVAILABILITY.—A State that submits a  
20 report under this subsection shall make the report  
21 available to the public.”.

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



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

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

4 “(1) \$3,200,000 for each of fiscal years 2003  
5 and 2004;

6 “(2) \$3,600,000 for fiscal year 2005;

7 “(3) \$4,000,000 for fiscal year 2006; and

8 “(4) \$6,000,000 for fiscal year 2007.

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

11 “(c) RESERVATION FOR NEEDS SURVEYS.—Of the  
12 amount made available under subsection (a) to carry out  
13 this title for a fiscal year, the Administrator may reserve  
14 not more than \$1,000,000 per year to pay the costs of  
15 conducting needs surveys under section 516(2).”.

16 (k) CONFORMING AMENDMENT.—Section 216 of the  
17 Federal Water Pollution Control Act (33 U.S.C. 1296) is  
18 amended—

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

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

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

3   **SEC. 201. PLANNING, DESIGN, AND PRECONSTRUCTION**  
 4                           **COSTS.**

5           Section 1452(a)(2) of the Safe Drinking Water Act  
 6 (42 U.S.C. 300j–12(a)(2)) is amended in the second sen-  
 7 tence by striking “(not” and inserting “(including plan-  
 8 ning, design, and associated preconstruction expenditures  
 9 but not”.

10 **SEC. 202. STATE REVOLVING LOAN FUND.**

11           (a) **IN GENERAL.**—Section 1452(a)(3)(B)(ii) of the  
 12 Safe Drinking Water Act (42 U.S.C. 300j–  
 13 12(a)(3)(B)(ii)) is amended by inserting “and the forma-  
 14 tion of regional partnerships” after “procedures”.

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

20           (c) **TYPES OF ASSISTANCE.**—Section 1452(f) of the  
 21 Safe Drinking Water Act (42 U.S.C. 300j–12(f)) is  
 22 amended—

23                   (1) in paragraph (1)—

24                           (A) in subparagraph (C), by striking

25                           “and” at the end; and

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

2 “(E) the recipient of the loan funds con-  
3 siders, during the planning and engineering  
4 phase of each project for which the loan funds  
5 are received—

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

8 “(ii) forming public-private partner-  
9 ships or other cooperative partnerships;  
10 and

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

14 “(F) the recipient of the loan funds has in  
15 effect a plan to achieve, within a reasonable pe-  
16 riod of time, a rate structure that, to the max-  
17 imum extent practicable—

18 “(i) reflects the actual cost of service  
19 provided by the recipient; and

20 “(ii) addresses capital replacement  
21 funds; and

22 “(G) the recipient of each loan that re-  
23 flects a significant capital investment has in ef-  
24 fect, or will have in effect on completion of the  
25 project, an asset management plan (for which

1 the Administrator may publish information to  
 2 assist States in determining required content)  
 3 that—

4 “(i) conforms to generally accepted in-  
 5 dustry practices; and

6 “(ii) includes—

7 “(I) an inventory of existing as-  
 8 sets (including an estimate of the use-  
 9 ful life of the assets); and

10 “(II) an optimal schedule of op-  
 11 erations, maintenance, and capital in-  
 12 vestment required to meet and sustain  
 13 performance objectives;”;

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

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

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

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

21 (d) CONSULTATION AND COORDINATION WITH  
 22 STATE AGENCIES; JUDICIAL REVIEW.—Section 1452(g)  
 23 of the Safe Drinking Water Act (42 U.S.C. 300j–12(g))  
 24 is amended by adding at the end the following:

1           “(5) CONSULTATION AND COORDINATION WITH  
 2 STATE AGENCIES.—A State that provides financial  
 3 assistance from the drinking water revolving fund of  
 4 the State shall ensure that applicants for the assist-  
 5 ance consult and coordinate with, as appropriate,  
 6 agencies responsible for developing any—

7                   “(A) local land use plans;

8                   “(B) regional transportation improvement  
 9 and long-range transportation plans; and

10                  “(C) State, regional, and municipal water-  
 11 shed plans.

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

15       (e) OTHER AUTHORIZED ACTIVITIES.—Section  
 16 1452(k)(1) of the Safe Drinking Water Act (42 U.S.C.  
 17 300j–12(k)(1)) is amended by striking subparagraph (D)  
 18 and inserting the following:

19                   “(D) Make expenditures for the develop-  
 20 ment and implementation of source water pro-  
 21 tection programs.

22                   “(E) Provide assistance for consolidation  
 23 among community water systems for the pur-  
 24 pose of—

1 “(i) meeting national primary drink-  
2 ing water standards; or

3 “(ii) making more efficient use of  
4 funds made available under subsection  
5 (a)(2).”.

6 **SEC. 203. ADDITIONAL SUBSIDIZATION.**

7 Section 1452(d)(1) of the Safe Drinking Water Act  
8 (42 U.S.C. 300j-12(d)(1)) is amended—

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

11 “(A) IN GENERAL.—Notwithstanding any  
12 other provision”; and

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

14 “(B) SUBSIDIZATION FOR DISADVANTAGED  
15 USERS.—

16 “(i) IN GENERAL.—Subject to clause  
17 (ii), a State may provide additional sub-  
18 sidization under subparagraph (A) for a  
19 fiscal year for a community that does not  
20 meet the definition of a disadvantaged  
21 community if the State, as part of the as-  
22 sistance agreement between the State and  
23 the recipient of the assistance, ensures  
24 that the additional subsidization provided  
25 under this paragraph is directed through

1           the user charge rate system to disadvan-  
 2           tagged users within the residential user  
 3           class of the community (as defined by the  
 4           State based on affordability criteria).

5           “(ii) MAXIMUM AMOUNT.—Assistance  
 6           provided by a State under clause (i) shall  
 7           not exceed 15 percent of the amount of the  
 8           capitalization grant received by the State  
 9           for the fiscal year.

10           “(iii) GUIDANCE.—The Administrator  
 11           may publish guidance to assist States in  
 12           identifying disadvantaged users described  
 13           in clause (i).”.

14 **SEC. 204. PRIVATE UTILITIES.**

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

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

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

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

21           “(2) PRIVATE UTILITIES.—If a State elects to  
 22           include the needs of private utilities in the needs  
 23           survey under paragraph (1), the State shall ensure  
 24           that the private utilities are eligible to receive funds  
 25           under this title.”.

1 **SEC. 205. COMPETITION REQUIREMENTS.**

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

5 “(s) **COMPETITION REQUIREMENTS.**—

6 “(1) **IN GENERAL.**—Except as provided in para-  
7 graph (2), as a condition of receipt of funds under  
8 this section, no specification for bids prepared for  
9 projects to be carried out using the funds shall be  
10 written in such a manner as to contain any propri-  
11 etary, exclusionary, or discriminatory requirement,  
12 other than requirements based on performance, un-  
13 less such requirements are necessary to test or dem-  
14 onstrate a specific thing or to provide for necessary  
15 interchangeability of parts and equipment. If, in the  
16 judgment of a recipient of funds, it is impractical or  
17 uneconomical to make a clear and accurate descrip-  
18 tion of the technical requirements, a ‘brand name or  
19 equal’ description may be used as a means to define  
20 the performance or other salient requirements of a  
21 procurement, and in doing so the recipient need not  
22 establish the existence of any source other than the  
23 brand or source so named.

24 “(2) **SINGLE BIDS.**—Nothing in this subsection  
25 prohibits a recipient of assistance under this title  
26 that receives only 1 bid for a project described in



1 paragraph (1) from accepting the bid and carrying  
 2 out the project.”.

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

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

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

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

12 “(6) REVIEW AND EVALUATION.—

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

17 “(B) DISQUALIFICATION.—If, in carrying  
 18 out this subsection, the Administrator deter-  
 19 mines that a small public water system tech-  
 20 nology assistance center is not carrying out the  
 21 duties of the center, the Administrator—

22 “(i) shall notify the center of the de-  
 23 termination of the Administrator; and

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

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

9                   (b) ENVIRONMENTAL FINANCE CENTERS.—Section  
10                  1420(g) of the Safe Drinking Water Act (42 U.S.C. 300g–  
11                  9(g)) is amended by striking paragraph (4) and inserting  
12                  the following:

13                  “(4) AUTHORIZATION OF APPROPRIATIONS.—  
14                  There is authorized to be appropriated to carry out  
15                  this subsection \$1,500,000 for each of fiscal years  
16                  2003 through 2007.”.

17                  **SEC. 207. AUTHORIZATION OF APPROPRIATIONS.**

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

21                  “(m) AUTHORIZATION OF APPROPRIATIONS.—

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

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

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

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

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

5           “(2) AVAILABILITY.—Amounts made available  
6           under this subsection shall remain available until ex-  
7           pended.

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

14 **TITLE III—INNOVATIONS IN**  
15 **FUND AND WATER QUALITY**  
16 **MANAGEMENT**

17 **SEC. 301. TRANSFER OF FUNDS.**

18          (a) WATER POLLUTION CONTROL FUND.—Section  
19          603 of the Federal Water Pollution Control Act (33  
20          U.S.C. 1383) is amended by adding at the end the fol-  
21          lowing:

22               “(i) TRANSFER OF FUNDS.—

23                       “(1) IN GENERAL.—A Governor of the State  
24                       may—

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

6           “(B) reserve in any year an amount up to  
 7           the amount that may be reserved under sub-  
 8           paragraph (A) for that year from capitalization  
 9           grants made under section 1452 of that Act (42  
 10          U.S.C. 300j-12) and add the reserved funds to  
 11          any funds provided to the State under this title.

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

17          (b) SAFE DRINKING WATER FUND.—Section  
 18          1452(g) of the Safe Drinking Water Act (42 U.S.C. 300j-  
 19          12(g)) is amended—

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

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

23                 “(5) TRANSFER OF FUNDS.—

24                         “(A) IN GENERAL.—A Governor of the  
 25                         State may—

1           “(i) reserve up to 33 percent of a cap-  
 2           italization grant made under this section  
 3           and add the funds reserved to any funds  
 4           provided to the State under section 601 of  
 5           the Federal Water Pollution Control Act  
 6           (33 U.S.C. 1381); and

7           “(ii) reserve in any year an amount  
 8           up to the amount that may be reserved  
 9           under clause (i) for that year from capital-  
 10          ization grants made under section 601 of  
 11          that Act (33 U.S.C. 1381) and add the re-  
 12          served funds to any funds provided to the  
 13          State under this section.

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

20 **SEC. 302. DEMONSTRATION PROGRAM FOR WATER QUAL-**  
 21 **ITY ENHANCEMENT AND MANAGEMENT.**

22 (a) ESTABLISHMENT.—

23 (1) IN GENERAL.—As soon as practicable after  
 24 the date of enactment of this Act, the Administrator  
 25 of the Environmental Protection Agency (referred to

1 in this section as the “Administrator”) shall estab-  
2 lish a nationwide demonstration program to—

3 (A) promote innovations in technology and  
4 alternative approaches to water quality manage-  
5 ment or water supply; and

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

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

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

12 (2) SCOPE.—The demonstration program shall  
13 consist of 10 projects per year, to be carried out in  
14 municipalities selected by the Administrator under  
15 subsection (b).

16 (b) SELECTION OF MUNICIPALITIES.—

17 (1) APPLICATION.—A municipality that seeks  
18 to be selected to participate in the demonstration  
19 program shall submit to the Administrator a plan  
20 that—

21 (A) is developed in coordination with—

22 (i) the agency of the State having ju-  
23 risdiction over water quality or water sup-  
24 ply matters; and

25 (ii) interested stakeholders;

1 (B) describes water impacts specific to  
2 urban and rural areas;

3 (C) includes a strategy under which the  
4 municipality, through participation in the dem-  
5 onstration program, could effectively—

6 (i) address those problems; and

7 (ii) achieve the same water quality  
8 goals as those goals that—

9 (I) could be achieved using more  
10 traditional methods; or

11 (II) are mandated under—

12 (aa) the Federal Water Pol-  
13 lution Control Act (33 U.S.C.  
14 1251 et seq.); and

15 (bb) the Safe Drinking  
16 Water Act (42 U.S.C. 300f et  
17 seq.); and

18 (D) includes a schedule for achieving the  
19 goals of the municipality.

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

23 (A) excessive nutrient growth;

24 (B) urban or rural pressure;

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

1 (D) difficulties in water conservation and  
2 efficiency;

3 (E) a lack of support tools and tech-  
4 nologies to rehabilitate and replace water sup-  
5 plies;

6 (F) a lack of monitoring and data analysis  
7 for distribution systems;

8 (G) nonpoint source water pollution;

9 (H) sanitary overflows;

10 (I) combined sewer overflows;

11 (J) problems with naturally-occurring con-  
12 stituents of concern; or

13 (K) problems with erosion and excess sedi-  
14 ment.

15 (3) RESPONSIBILITIES OF ADMINISTRATOR.—In  
16 selecting municipalities under this subsection, the  
17 Administrator shall—

18 (A) ensure, to the maximum extent  
19 practicable—

20 (i) the inclusion in the demonstration  
21 program of a variety of projects with re-  
22 spect to—

23 (I) geographic distribution;

24 (II) innovative technologies used  
25 for the projects; and



1 (III) nontraditional approaches  
2 (including low-impact development  
3 technologies) used for the projects;  
4 and

5 (ii) that each category of project de-  
6 scribed in paragraph (2) is adequately rep-  
7 resented;

8 (B) give higher priority to projects that—

9 (i) address multiple problems; and

10 (ii) are regionally applicable;

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

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

20 (4) COST SHARING.—

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

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

4           (c) REPORTS.—

5           (1) REPORTS FROM MUNICIPALITIES.—A mu-  
6           nicipality that is selected for participation in the  
7           demonstration program shall submit to the Adminis-  
8           trator, on the date of completion of a project of the  
9           municipality and on each of the dates that is 1, 2,  
10          and 3 years after that date, a report that describes  
11          the effectiveness of the project.

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

21          (d) INCORPORATION OF RESULTS AND INFORMA-  
22          TION.—To the maximum extent practicable, the Adminis-  
23          trator shall incorporate the results of, and information ob-  
24          tained from, successful projects under this section into  
25          programs administered by the Administrator.

1 (e) AUTHORIZATION OF APPROPRIATIONS.—There is  
2 authorized to be appropriated to carry out this section  
3 \$20,000,000 for each of fiscal years 2003 through 2007.

4 **SEC. 303. RATE STUDY.**

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

11 (b) REQUIRED ELEMENTS.—

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

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

18 (B) identify the manner in which the pub-  
19 lic water system and treatment works rates  
20 were determined;

21 (C) determine the manner in which cost of  
22 service is measured;

23 (D)(i) survey existing practices for estab-  
24 lishing public water system and treatment  
25 works rates; and

1           (ii) identify any commonalities in factors  
2           and processes used to evaluate rate systems and  
3           make related decisions; and

4           (E) recommend a set of best industry prac-  
5           tices for public water systems and treatment  
6           works for use in establishing a rate structure  
7           that—

8                   (i) adequately addresses the true cost  
9                   of service; and

10                   (ii) takes into consideration the needs  
11                   of disadvantaged individuals and commu-  
12                   nities.

13           (2) AFFORDABILITY.—The study shall, at a  
14           minimum—

15                   (A) identify existing standards for afford-  
16                   ability;

17                   (B) determine the manner in which those  
18                   standards are determined and defined;

19                   (C) determine the manner in which afford-  
20                   ability varies with respect to communities of  
21                   different sizes and in different regions; and

22                   (D) determine the extent to which afford-  
23                   ability affects the decision of a community to  
24                   increase public water system and treatment  
25                   works rates (including the decision relating to

1           the percentage by which those rates should be  
2           increased).

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

5                   (A) survey a cross-section of States rep-  
6                   resenting different sizes, demographics, and  
7                   geographical regions;

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

13                  (C) review other means of identifying the  
14                  meaning of the term “disadvantaged”, as that  
15                  term applies to communities;

16                  (D) determine which factors and character-  
17                  istics are required for a community to be con-  
18                  sidered “disadvantaged”; and

19                  (E) evaluate the degree to which factors  
20                  such as a reduction in the tax base over a pe-  
21                  riod of time, a reduction in population, the loss  
22                  of an industrial base, and the existence of areas  
23                  of concentrated poverty are taken into account  
24                  in determining whether a community is a dis-  
25                  advantaged community.

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

8       (d) REPORT TO CONGRESS.—On completion of the  
9 study under this section, the National Academy of  
10 Sciences shall submit to Congress a report that describes  
11 the results of the study.

12       (e) AUTHORIZATION OF APPROPRIATIONS.—There is  
13 authorized to be appropriated to carry out this section  
14 \$1,000,000 for each of fiscal years 2003 and 2004.

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

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

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

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

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

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

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

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

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

## 20           **TITLE IV—WATER RESOURCE** 21           **PLANNING**

### 22   **SEC. 401. FINDINGS.**

23           Congress finds that—

24           (1) there is ever-growing demand and competi-  
25           tion for water from many segments of society, in-

1 including 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  
16 water 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 short-  
3 ages 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  
7 States;

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

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

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

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

18 **SEC. 402. DEFINITION OF SECRETARY.**

19 In this title, the term “Secretary” means the Sec-  
20 retary of the Interior, acting through the Director of the  
21 United States Geological Survey.

22 **SEC. 403. ACTIONS.**

23 (a) ASSESSMENT.—

24 (1) IN GENERAL.—Not later than 2 years after  
25 the date of enactment of this Act, the Secretary

1 shall conduct an assessment of the state of water re-  
2 sources in the United States.

3 (2) COMPONENTS.—The assessment shall, at a  
4 minimum—

5 (A) identify areas in the United States  
6 that are at significant risk for water shortages  
7 or water surpluses, as those shortages or sur-  
8 pluses pertain to support of human or eco-  
9 system needs, in—

10 (i) the short term (1 through 10  
11 years);

12 (ii) the middle term (11 through 20  
13 years); and

14 (iii) the long term (21 through 50  
15 years); and

16 (B) identify areas in each category de-  
17 scribed in subparagraph (A) in which water re-  
18 source issues cross political boundaries.

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

22 (b) WATER RESOURCE RESEARCH PRIORITIES.—

23 (1) IN GENERAL.—The Secretary shall coordi-  
24 nate a process among Federal agencies (including  
25 the Environmental Protection Agency) to develop

1 and publish, not later than 1 year after the date of  
2 enactment of this Act, a list of water resource re-  
3 search priorities that focuses on—

4 (A) monitoring; and

5 (B) improving the quality of the informa-  
6 tion available to State, tribal, and local water  
7 resource managers.

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

12 (c) INFORMATION DELIVERY SYSTEM.—

13 (1) IN GENERAL.—The Secretary shall coordi-  
14 nate a process to develop an effective information  
15 delivery system to communicate information de-  
16 scribed in paragraph (2) to—

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

19 (B) the private sector; and

20 (C) the general public.

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

23 (A) the results of the national water re-  
24 source assessment;

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

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

5 (D) planning models for water shortages or  
6 surpluses (at various levels, such as State, river  
7 basin, and watershed levels);

8 (E) streamlined procedures for States and  
9 localities to interact with and obtain assistance  
10 from Federal agencies that perform water re-  
11 source functions; and

12 (F) other materials, as determined by the  
13 Secretary.

14 **SEC. 404. REPORT TO CONGRESS.**

15 Not later than 2 years after the date of enactment  
16 of this Act, and every 2 years thereafter through fiscal  
17 year 2007, the Secretary shall submit to Congress a report  
18 on the implementation of this title.

19 **SEC. 405. AUTHORIZATION OF APPROPRIATIONS.**

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

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