

103D CONGRESS  
1ST SESSION

# S. 442

To provide for the maintenance of dams located on Indian lands by the Bureau of Indian Affairs or through contracts with Indian tribes.

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## IN THE SENATE OF THE UNITED STATES

FEBRUARY 25 (legislative day, JANUARY 5), 1993

Mr. BINGAMAN introduced the following bill; which was read twice and referred to the Committee on Indian Affairs

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## A BILL

To provide for the maintenance of dams located on Indian lands by the Bureau of Indian Affairs or through contracts with Indian tribes.

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 “Indian Dams Safety  
5        Act of 1993”.

6        **SEC. 2. FINDINGS.**

7        The Congress finds that—

8                (1) in 1980, the Secretary of the Interior estab-  
9        lished a department-wide dam safety program to  
10       correct deficiencies identified by inspections of dams;

1           (2) the Bureau of Indian Affairs (hereafter re-  
2           ferred to in this Act as the “BIA”) did not make  
3           timely progress toward accomplishing the objectives  
4           of the dam safety program and, as a result, 53 dams  
5           on Indian lands are considered to present a high  
6           hazard to human life in the event of failure;

7           (3) unsafe BIA dams continue to pose an immi-  
8           nent threat to people and property because the dam  
9           safety program has not been given a sufficiently  
10          high priority either by the BIA or by the Congress;

11          (4) until 1991, the BIA did not have an ade-  
12          quate program to ensure proper periodic mainte-  
13          nance of dams under its jurisdiction and structural  
14          problems have often led to seepage and accelerated  
15          bank erosion, as well as other unsafe conditions;

16          (5) safe working dams are necessary on Indian  
17          lands to supply irrigation water, to provide flood  
18          control, to provide water for municipal, industrial,  
19          domestic, livestock, and recreation uses, and for fish  
20          and wildlife habitats;

21          (6) because of inadequate attention in the past  
22          to regular maintenance requirements for BIA dams,  
23          the costs for needed repairs and future maintenance  
24          are significantly increased;

1           (7) many dams have operation and maintenance  
2 deficiencies regardless of their current safety condi-  
3 tion classification and the deficiencies must be cor-  
4 rected to avoid future threats to human life and  
5 property; and

6           (8) it is necessary to institute a regular dam  
7 maintenance and repair program, utilizing expertise  
8 either within the BIA, the Indian tribal govern-  
9 ments, or other Federal agencies.

10 **SEC. 3. DEFINITIONS.**

11 For the purposes of this Act:

12           (1) INDIAN TRIBES.—The term “Indian tribes”  
13 has the meaning given such term in section 4(e) of  
14 the Indian Self-Determination and Education Assist-  
15 ance Act (25 U.S.C. 450b(e)).

16           (2) SECRETARY.—The term “Secretary” means  
17 the Secretary of the Interior.

18           (3) DAM SAFETY PROGRAM.—The term “dam  
19 safety program” means the program established by  
20 the Secretary of Interior by order dated February  
21 28, 1980, to prevent dam failure and the resulting  
22 loss of life or serious property damage.

23           (4) DAM SAFETY OPERATION AND MAINTEN-  
24 NANCE PROGRAM.—The term “dam safety operation

1 and maintenance program” means the program es-  
2 tablished under section 4 of this Act.

3 (5) DAM SAFETY CONDITION CLASSIFICA-  
4 TIONS.—The term “dam safety condition classifica-  
5 tions” means the following classifications cited in  
6 the Bureau of Reclamation glossary of dam safety  
7 terms:

8 (A) SATISFACTORY.—No existing or poten-  
9 tial dam safety deficiencies are recognized. Safe  
10 performance is expected under all anticipated  
11 conditions.

12 (B) FAIR.—No existing dam safety defi-  
13 ciencies are recognized for normal loading con-  
14 ditions. Infrequent hydrologic or seismic events  
15 would probably result in a dam safety defi-  
16 ciency.

17 (C) CONDITIONALLY POOR.—A potential  
18 dam safety deficiency is recognized for unusual  
19 loading conditions that may realistically occur  
20 during the expected life of the structure.

21 (D) POOR.—A potential dam safety defi-  
22 ciency is clearly recognized for normal loading  
23 conditions. Immediate actions to resolve the de-  
24 ficiency are recommended; reservoir restrictions

1           may be necessary until resolution of the prob-  
2           lem.

3           (E) UNSATISFACTORY.—A dam safety de-  
4           ficiency exists for normal loading conditions.  
5           Immediate remedial action is required for reso-  
6           lution of the problem.

7   **SEC. 4. ACTIONS BY SECRETARY.**

8           (a) ESTABLISHMENT OF DAM SAFETY OPERATION  
9   AND MAINTENANCE PROGRAM.—The Secretary shall es-  
10   tablish a dam safety operation and maintenance program  
11   within the BIA to ensure the regular, recurring, routine  
12   maintenance, examination, and monitoring of the condi-  
13   tion of each dam identified pursuant to subsection (c) nec-  
14   essary to maintain the dam in a satisfactory condition on  
15   a long-term basis.

16          (b) REHABILITATION.—The Secretary is directed to  
17   perform such rehabilitation work as is necessary to bring  
18   the dams identified pursuant to subsection (c) to a satis-  
19   factory condition. Upon the completion of rehabilitation  
20   work on each dam, the dam shall be placed under the dam  
21   safety operation and maintenance program established  
22   pursuant to subsection (a) and shall be regularly main-  
23   tained under the guidelines of such program.

24          (c) LIST OF DAMS.—The Secretary shall develop a  
25   comprehensive list of dams located on Indian lands that

1 describes the dam safety condition classifications of each  
2 dam, as such terms are defined in section 3(5).

3 (d) PURPOSE.—Work authorized by this Act shall be  
4 for the purposes of dam safety operation and maintenance  
5 and not for the purposes of providing additional conserva-  
6 tion storage capacity or developing benefits beyond those  
7 provided by the original dams and reservoirs.

8 (e) TECHNICAL ASSISTANCE.—To carry out the pur-  
9 poses of this Act, the Secretary may obtain technical as-  
10 sistance from agencies in addition to the BIA under his  
11 jurisdiction, such as the Bureau of Reclamation, or from  
12 other departments through memoranda of understanding,  
13 such as the Department of Defense. Notwithstanding any  
14 such technical assistance, the dam safety program and the  
15 dam safety operation and maintenance program shall re-  
16 main under the direction of the BIA.

17 (f) CONTRACT AUTHORITY.—In addition to any other  
18 authority established by law, the Secretary is authorized  
19 to contract with appropriate Indian tribes to carry out the  
20 dam safety operation and maintenance program estab-  
21 lished pursuant to this Act.

22 **SEC. 5. AUTHORIZATION.**

23 There are authorized to be appropriated such sums  
24 as may be necessary to carry out the provisions of this  
25 Act.

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