

115TH CONGRESS  
2D SESSION

# H. R. 5609

To establish a trust fund to provide for adequate funding for water and sewer infrastructure, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

APRIL 25, 2018

Mr. ELLISON (for himself, Mr. KHANNA, Mr. CARTWRIGHT, Mr. CAPUANO, Mr. HUFFMAN, Ms. WASSERMAN SCHULTZ, Ms. NORTON, Ms. MOORE, Mr. POCAN, Mr. BROWN of Maryland, Mrs. BUSTOS, Ms. VELÁZQUEZ, Mrs. LAWRENCE, Ms. BARRAGÁN, Mr. MCGOVERN, Ms. MENG, Ms. GABBARD, Mr. JOHNSON of Georgia, Ms. SCHAKOWSKY, Mr. KILDEE, Mr. WELCH, Mr. CARBAJAL, Ms. LOFGREN, Ms. MCCOLLUM, Mrs. WATSON COLEMAN, Ms. JAYAPAL, Mr. ESPAILLAT, Mr. YARMUTH, Mrs. CAROLYN B. MALONEY of New York, Mr. NADLER, Ms. SHEA-PORTER, Mr. RASKIN, Mr. DESAULNIER, Mr. GRIJALVA, Mr. QUIGLEY, Mr. BEN RAY LUJÁN of New Mexico, and Mr. CARSON of Indiana) introduced the following bill; which was referred to the Committee on Transportation and Infrastructure, and in addition to the Committees on Energy and Commerce, Ways and Means, and Agriculture, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To establish a trust fund to provide for adequate funding for water and sewer infrastructure, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

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

2 (a) SHORT TITLE.—This Act may be cited as the  
3 “Water Affordability, Transparency, Equity, and Reli-  
4 ability Act of 2018”.

5 (b) TABLE OF CONTENTS.—The table of contents for  
6 this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Water Affordability, Transparency, Equity, and Reliability Trust Fund.
- Sec. 3. Report on affordability, discrimination and civil rights violations, public participation in regionalization, and data collection.
- Sec. 4. Technical assistance to rural and small municipalities and tribal governments.
- Sec. 5. Residential onsite sewage disposal system improvement.
- Sec. 6. Household water well systems.
- Sec. 7. State water pollution control revolving funds.
- Sec. 8. Use of State revolving loan funds under the Safe Drinking Water Act.
- Sec. 9. Drinking water grant programs.
- Sec. 10. Requirement for the use of American materials in drinking water.
- Sec. 11. Labor provisions.

7 **SEC. 2. WATER AFFORDABILITY, TRANSPARENCY, EQUITY,**  
8 **AND RELIABILITY TRUST FUND.**

9 (a) ESTABLISHMENT.—

10 (1) IN GENERAL.—Subchapter A of chapter 98  
11 of the Internal Revenue Code of 1986 is amended by  
12 adding at the end the following:

13 **“SEC. 9512. WATER AFFORDABILITY, TRANSPARENCY, EQ-**  
14 **UITY, AND RELIABILITY TRUST FUND.**

15 “(a) CREATION OF TRUST FUND.—There is estab-  
16 lished in the Treasury of the United States a trust fund  
17 to be known as the ‘Water Affordability, Transparency,  
18 Equity, and Reliability Trust Fund’ (referred to in this  
19 section as the ‘Trust Fund’), consisting of such amounts

1 as may be appropriated or credited to such Trust Fund  
2 as provided in this section or section 9602(b).

3 “(b) TRANSFERS TO FUND.—

4 “(1) IN GENERAL.—There are hereby appro-  
5 priated to the Trust Fund such amounts as the Sec-  
6 retary from time to time estimates are equal to the  
7 increase in Federal revenues attributable to the  
8 amendment made by section 2(b) of the Water Af-  
9 fordability, Transparency, Equity, and Reliability  
10 Act of 2018.

11 “(2) LIMITATION.—The sum of the amounts  
12 appropriated under paragraph (1) during any fiscal  
13 year shall not exceed \$34,850,000,000.

14 “(c) EXPENDITURES.—Amounts in the Trust Fund  
15 are available, without further appropriation and without  
16 fiscal year limitation, for the purposes described in section  
17 2(c) of the Water Affordability, Transparency, Equity,  
18 and Reliability Act of 2018.”.

19 (2) CLERICAL AMENDMENT.—The table of  
20 parts for subchapter A of chapter 98 of such Code  
21 is amended by inserting after the item relating to  
22 section 9511 the following new item:

“Sec. 9512. Water Affordability, Transparency, Equity, and Reliability Trust  
Fund.”.

23 (b) IMPOSITION OF TAX.—

1           (1) IN GENERAL.—Section 11(b) of the Internal  
2 Revenue Code of 1986 is amended by striking “21”  
3 and inserting “24.5”.

4           (2) EFFECTIVE DATE.—The amendments made  
5 by this Act shall take apply to taxable years begin-  
6 ning after December 31, 2018.

7           (c) ALLOCATION OF FUNDS.—The Administrator of  
8 the Environmental Protection Agency and the Secretary  
9 of Agriculture shall allocate, for a fiscal year, the funds  
10 available, at the beginning of such fiscal year, in the Water  
11 Affordability, Transparency, Equity, and Reliability Trust  
12 Fund, established by section 9512 of the Internal Revenue  
13 Code of 1986, as follows:

14           (1) CLEAN WATER PROGRAMS.—Of such  
15 amount, the Administrator shall make available—

16                   (A) 0.5 percent for making grants under  
17 section 104(b)(8) of the Federal Water Pollu-  
18 tion Control Act;

19                   (B) 1.5 percent for making grants under  
20 section 106 of such Act (33 U.S.C. 1256);

21                   (C) 2.5 percent for making grants under  
22 section 222 of such Act;

23                   (D) 2.5 percent for making grants under  
24 section 319 of such Act (33 U.S.C. 1329); and

1 (E) 45 percent for making capitalization  
2 grants under section 601 of such Act (33  
3 U.S.C. 1381).

4 (2) SAFE DRINKING WATER FUNDING.—Of such  
5 amount, the Administrator shall make available—

6 (A) 0.5 percent for providing technical as-  
7 sistance under section 1442(e) of the Safe  
8 Drinking Water Act (42 U.S.C. 300j–1(e));

9 (B) 43.5 percent for making capitalization  
10 grants under section 1452 of such Act (42  
11 U.S.C. 300j–12); and

12 (C) 3 percent for making grants under sec-  
13 tion 1465 of such Act.

14 (3) HOUSEHOLD WATER WELL SYSTEMS.—Of  
15 such amount, the Secretary shall make available 1  
16 percent for making grants under section 306E of the  
17 Consolidated Farm and Rural Development Act (7  
18 U.S.C. 1926e).

19 **SEC. 3. REPORT ON AFFORDABILITY, DISCRIMINATION AND**  
20 **CIVIL RIGHTS VIOLATIONS, PUBLIC PARTICI-**  
21 **PATION IN REGIONALIZATION, AND DATA**  
22 **COLLECTION.**

23 (a) STUDY.—

24 (1) IN GENERAL.—The Administrator of the  
25 Environmental Protection Agency shall conduct a

1 study on water and sewer services, in accordance  
2 with this subsection.

3 (2) AFFORDABILITY.—In conducting the study  
4 under paragraph (1), the Administrator shall study  
5 water affordability nationwide, including—

6 (A) rates for water and sewer services, in-  
7 creases in such rates during the ten-year period  
8 preceding such study, and water service dis-  
9 connections due to unpaid water service  
10 charges; and

11 (B) the effectiveness of funding under sec-  
12 tion 1452 of the Safe Drinking Water Act and  
13 under section 601 of the Federal Water Pollu-  
14 tion Control Act for promoting affordable, equi-  
15 table, transparent, and reliable water and sewer  
16 service.

17 (3) DISCRIMINATION AND CIVIL RIGHTS.—In  
18 conducting the study under paragraph (1), the Ad-  
19 ministrator, in collaboration with the Civil Rights  
20 Division of the United States Department of Justice,  
21 shall study—

22 (A) discriminatory practices of water and  
23 sewer service providers; and

24 (B) violations by such service providers  
25 that receive Federal assistance of civil rights

1 under title VI of the Civil Rights Act of 1964  
2 with regard to equal access to water and sewer  
3 services.

4 (4) PUBLIC PARTICIPATION IN REGIONALIZA-  
5 TION.—In conducting the study under paragraph  
6 (1), the Administrator shall evaluate efforts to re-  
7 gionalize public water systems, as defined in section  
8 1401 of the Safe Water Drinking Act, and sewer  
9 services with respect to public participation in—

10 (A) the decision to undergo such regional-  
11 ization; and

12 (B) decisionmaking by the board of direc-  
13 tors (or other governing body) of the entity that  
14 provides, or oversees or coordinates the provi-  
15 sion of, water by the public water systems sub-  
16 ject to such regionalization.

17 (5) DATA COLLECTION.—In conducting the  
18 study under paragraph (1), the Administrator shall  
19 collect information, assess the availability of infor-  
20 mation, and evaluate the methodologies used to col-  
21 lect information, related to—

22 (A) people living without water or sewer  
23 services;

24 (B) water service disconnections due to un-  
25 paid water service charges, including disconnec-

1           tions experienced by households containing chil-  
2           dren, elderly persons, disabled persons, chron-  
3           ically ill persons, or other vulnerable popu-  
4           lations; and

5                   (C) disparate effects, on the basis of race,  
6           gender, or socioeconomic status, of water serv-  
7           ice disconnections and the lack of public water  
8           service.

9           (b) REPORT.—Not later than 1 year after the date  
10          of the enactment of this Act, the Administrator of the En-  
11          vironmental Protection Agency shall submit to Congress  
12          a report that contains—

13                   (1) the results of the study conducted under  
14          subsection (a)(1); and

15                   (2) recommendations for utility companies,  
16          Federal agencies, and States relating to such results.

17          **SEC. 4. TECHNICAL ASSISTANCE TO RURAL AND SMALL**  
18                                   **MUNICIPALITIES AND TRIBAL GOVERN-**  
19                                   **MENTS.**

20          Section 104(b) of the Federal Water Pollution Con-  
21          trol Act (33 U.S.C. 1254(b)) is amended—

22                   (1) in paragraph (6), by striking “and” at the  
23          end;

24                   (2) in paragraph (7), by striking the period at  
25          the end and inserting “; and”; and



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

2 “(8) make grants to nonprofit organizations  
3 to—

4 “(A) provide technical assistance to rural  
5 and small municipalities and tribal governments  
6 for the purpose of assisting, in consultation  
7 with the State in which the assistance is pro-  
8 vided, such municipalities and governments in  
9 the planning, development, and acquisition of fi-  
10 nancing for projects and activities eligible for  
11 assistance under section 603(c);

12 “(B) provide technical assistance and  
13 training to rural and small municipalities and  
14 tribal governments responsible for publicly  
15 owned treatment works and decentralized  
16 wastewater treatment systems for the purpose  
17 of enabling such works and systems to protect  
18 water quality and achieve and maintain compli-  
19 ance with the requirements of this Act; and

20 “(C) disseminate information to rural and  
21 small municipalities, tribal governments, and  
22 municipalities that meet the affordability cri-  
23 teria established under section 603(i)(2) by the  
24 State in which the municipality is located, that  
25 pertains to the planning, design, construction,

1 and operation of publicly owned treatment  
2 works and decentralized wastewater treatment  
3 systems.”.

4 **SEC. 5. RESIDENTIAL ONSITE SEWAGE DISPOSAL SYSTEM**  
5 **IMPROVEMENT.**

6 Title II of the Federal Water Pollution Control Act  
7 (33 U.S.C. 1281 et seq.) is amended by adding at the end  
8 the following:

9 **“SEC. 222. RESIDENTIAL ONSITE SEWAGE DISPOSAL SYS-**  
10 **TEMS.**

11 “Not later than the date that is 1 year after the date  
12 of the enactment of this section, the Administrator shall  
13 establish a grant program to make grants to users of a  
14 septic tank and drainage field for costs associated with  
15 repairing, replacing, or upgrading such tank and such  
16 field.”.

17 **SEC. 6. HOUSEHOLD WATER WELL SYSTEMS.**

18 Section 306E(d) of the Consolidated Farm and Rural  
19 Development Act (7 U.S.C. 1926e(d)) is amended by  
20 striking “\$5,000,000 for each of fiscal years 2014 through  
21 2018” and inserting “\$348,500,000 for each fiscal year”.

1 **SEC. 7. STATE WATER POLLUTION CONTROL REVOLVING**  
2 **FUNDS.**

3 (a) **SPECIFIC REQUIREMENTS.**—Section 602(b) of  
4 the Federal Water Pollution Control Act (33 U.S.C.  
5 1382(b)) is amended—

6 (1) in paragraph (2), by striking “will be made  
7 to the State with funds to be made available” and  
8 inserting “were made to the State with funds made  
9 available for fiscal year 2016”;

10 (2) in paragraph (13), by striking “and” at the  
11 end;

12 (3) in paragraph (14), by striking the period at  
13 the end and inserting a semicolon; and

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

15 “(15) the State will not provide financial assist-  
16 ance using amounts from the fund for any project  
17 that will provide substantial direct benefits to new  
18 communities, lots, or subdivisions, other than a  
19 project to construct an advanced decentralized  
20 wastewater system; and”.

21 (b) **PROJECTS AND ACTIVITIES ELIGIBLE FOR AS-**  
22 **SISTANCE.**—Section 603(c) of the Federal Water Pollution  
23 Control Act (33 U.S.C. 1383(c)) is amended—

24 (1) in paragraph (10), by striking “and” at the  
25 end;

1 (2) in paragraph (11)(B), by striking the period  
2 at the end and inserting “; and”; and

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

4 “(12) to any municipality or intermunicipal,  
5 interstate, or State agency for—

6 “(A) purchasing from a willing or unwill-  
7 ing seller a privately owned treatment works;  
8 and

9 “(B) expenses related to canceling a con-  
10 tract for the operation or management of a  
11 publicly owned treatment works.”.

12 (c) INCREASING THE AMOUNT OF ADDITIONAL SUB-  
13 SIDIZATION BY THE STATE.—Section 603(i)(3)(B) of the  
14 Federal Water Pollution Control Act (33 U.S.C.  
15 1383(i)(3)(B)) is amended to read as follows:

16 “(B) ADDITIONAL LIMITATION.—A State  
17 may use not less than 50 percent of the total  
18 amount received by the State in capitalization  
19 grants under this title for a fiscal year for pro-  
20 viding additional subsidization under this sub-  
21 section.”.

22 **SEC. 8. USE OF STATE REVOLVING LOAN FUNDS UNDER**  
23 **THE SAFE DRINKING WATER ACT.**

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

1 (1) in subsection (a)—

2 (A) in paragraph (2)—

3 (i) in subparagraph (A), by inserting  
4 “publicly owned, operated, and managed”  
5 before “community water systems”; and

6 (ii) in subparagraph (E), by striking  
7 “The funds under this section shall not be  
8 used for the acquisition of real property or  
9 interests therein, unless the acquisition is  
10 integral to a project authorized by this  
11 paragraph and the purchase is from a will-  
12 ing seller.” and inserting “The funds may  
13 also be used for purchasing from a willing  
14 or unwilling seller a privately owned com-  
15 munity water system, or for the expenses  
16 related to canceling a contract for the op-  
17 eration or management of a community  
18 water system.”; and

19 (B) by adding at the end the following new  
20 paragraph:

21 “(5) EXCEPTION TO PUBLIC OWNERSHIP, OPER-  
22 ATION, AND MANAGEMENT REQUIREMENT.—Not-  
23 withstanding paragraph (2)(A), public water systems  
24 that regularly serve fewer than 10,000 persons, and  
25 which are not owned, operated, or managed by any

1 person who owns, operates, or manages any other  
2 public water system, may receive assistance under  
3 this section.”;

4 (2) in subsection (d)(2), by striking “exceed 30  
5 percent” and inserting “be less than 50 percent”;

6 (3) in subsection (e), by striking “to be made  
7 to the State” and inserting “that was made to the  
8 State in fiscal year 2016”;

9 (4) in subsection (g)(3)—

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

12 (B) in paragraph (C), by striking the pe-  
13 riod at the end and inserting “; and”; and

14 (C) by inserting after subparagraph (C)  
15 the following:

16 “(D) guidance to ensure affordable, equi-  
17 table, transparent and reliable water service  
18 provision, to provide protections for households  
19 facing service disconnection due to unpaid  
20 water service charges, and to promote universal  
21 equal access to water services.”; and

22 (5) in subsection (k)(1), by adding at the end  
23 the following:

24 “(E) Provide assistance in the form of a  
25 grant to owners of private property on which a

1 lead service line (as defined in section 1459B)  
2 is or may be located, for the purpose of replac-  
3 ing the lead service line with a service line that  
4 is lead-free (as defined in section 1417(d)).”.

5 **SEC. 9. DRINKING WATER GRANT PROGRAMS.**

6 (a) SCHOOL DRINKING WATER IMPROVEMENT.—  
7 Part F of the Safe Drinking Water Act (42 U.S.C. 300j–  
8 21 et seq.) is amended by adding at the end the following:

9 **“SEC. 1465. FEDERAL ASSISTANCE.**

10 “Not later than the date that is one year after the  
11 date of enactment of this section, the Administrator shall  
12 establish a grant program to make grants to local edu-  
13 cational agencies for costs associated with—

14 “(1) installing, repairing, or replacing the infra-  
15 structure necessary to ensure that drinking water  
16 coolers, drinking water fountains, or bottle filling  
17 stations at schools under the jurisdiction of the local  
18 educational agency are lead free; and

19 “(2) testing drinking water at schools under the  
20 jurisdiction of the local educational agency for the  
21 presence of lead.”.

22 (b) TRIBAL DRINKING WATER.—Section 1452(i)(1)  
23 of the Safe Drinking Water Act (42 U.S.C. 300j–12(i)(1))  
24 is amended, in the first sentence—

1 (1) by striking “1 1/2” and inserting “Three”;

2 and

3 (2) by striking “may” and inserting “shall”.

4 **SEC. 10. REQUIREMENT FOR THE USE OF AMERICAN MATE-**  
5 **RIALS IN DRINKING WATER.**

6 Section 1452(a) of the Safe Drinking Water Act (42  
7 U.S.C. 300j–12(a)(4)) is amended by striking “During  
8 fiscal year 2017, funds” and inserting “Funds”.

9 **SEC. 11. LABOR PROVISIONS.**

10 (a) PREVAILING RATE OF WAGE.—Nothing in this  
11 Act shall affect the applicability of the requirements relat-  
12 ing to labor standards of sections 513 and 602(b)(6) of  
13 the Federal Water Pollution Control Act (33 U.S.C. 1372,  
14 1382(b)(6)) and section 1450(e) of the Safe Drinking  
15 Water Act (42 U.S.C. 300j–9(e)) to projects carried out  
16 under those Acts.

17 (b) PROJECT LABOR AGREEMENTS.—

18 (1) CLEAN WATER REVOLVING FUNDS.—Sec-  
19 tion 602(b) of the Federal Water Pollution Control  
20 Act (33 U.S.C. 1382(b)), as amended by section 7,  
21 is further amended by adding at the end the fol-  
22 lowing:

23 “(16) the State will—

24 “(A) permit recipients of assistance under  
25 this title to enter into agreements authorized



1 under section 8(f) of the National Labor Rela-  
2 tions Act (commonly known as ‘project labor  
3 agreements’) with respect to projects for build-  
4 ing or construction carried out with such assist-  
5 ance; and

6 “(B) ensure that, to the maximum extent  
7 practicable, recipients of assistance under this  
8 title carry out such projects through the use of  
9 such agreements.”.

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

13 (A) in subsection (a), by adding at the end  
14 the following:

15 “(5) PROJECT LABOR AGREEMENTS.—Each  
16 agreement under this subsection shall require that  
17 the State permit recipients of assistance under this  
18 section to enter into agreements authorized under  
19 section 8(f) of the National Labor Relations Act  
20 (commonly known as ‘project labor agreements’)  
21 with respect to projects for building or construction  
22 carried out with such assistance.”; and

23 (B) in subsection (b)(3)(A)—

24 (i) in clause (ii), by striking “; and”  
25 and inserting a semicolon;

1           (ii) in clause (iii), by striking the pe-  
2           riod at the end and inserting “; and”; and

3           (iii) by adding at the end the fol-  
4           lowing:

5           “(iv) with respect to projects for  
6           building or construction, will be carried out  
7           through the use of agreements authorized  
8           under section 8(f) of the National Labor  
9           Relations Act.”.

○