

118TH CONGRESS  
1ST SESSION

# S. 938

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 SENATE OF THE UNITED STATES

MARCH 22, 2023

Mr. SANDERS (for himself, Mr. WYDEN, Mr. BLUMENTHAL, Mr. MERKLEY, Ms. WARREN, and Mr. WELCH) introduced the following bill; which was read twice and referred to the Committee on Finance

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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,*

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

4 (a) SHORT TITLE.—This Act may be cited as the  
5 “Water Affordability, Transparency, Equity, and Reli-  
6 ability Act of 2023”.

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

Sec. 1. Short title; table of contents.

Sec. 2. Definition of Administrator.

Sec. 3. Water Affordability, Transparency, Equity, and Reliability Trust Fund.

- Sec. 4. Report on affordability, discrimination and civil rights violations, public participation in regionalization, and data collection.
- Sec. 5. Household water well systems.
- Sec. 6. Use of State revolving funds under the Federal Water Pollution Control Act.
- Sec. 7. Use of State revolving loan funds under the Safe Drinking Water Act.
- Sec. 8. Drinking water grant programs.
- Sec. 9. Labor provisions.
- Sec. 10. Drinking water assistance to colonias.

1 **SEC. 2. DEFINITION OF ADMINISTRATOR.**

2 In this Act, the term “Administrator” means the Ad-  
3 ministrator of the Environmental Protection Agency.

4 **SEC. 3. WATER AFFORDABILITY, TRANSPARENCY, EQUITY,**  
5 **AND RELIABILITY TRUST FUND.**

6 (a) ESTABLISHMENT.—

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

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

12 “(a) CREATION OF TRUST FUND.—There is estab-  
13 lished in the Treasury of the United States a trust fund  
14 to be known as the ‘Water Affordability, Transparency,  
15 Equity, and Reliability Trust Fund’ (referred to in this  
16 section as the ‘Trust Fund’), consisting of such amounts  
17 as may be appropriated or credited to such Trust Fund  
18 as provided in this section or section 9602(b).

19 “(b) TRANSFERS TO FUND.—

20 “(1) IN GENERAL.—There are hereby appro-  
21 priated to the Trust Fund such amounts as the Sec-

retary from time to time estimates are equal to the increase in Federal revenues attributable to the amendment made by section 3(b) of the Water Affordability, Transparency, Equity, and Reliability Act of 2023.

“(2) LIMITATION.—The sum of the amounts appropriated under paragraph (1) during any fiscal year shall not exceed the larger of—

“(A) \$35,000,000,000, and

“(B) one-twentieth of the sum of—

“(i) the 20-year need identified in the most recent assessment conducted by the Administrator of the Environmental Protection Agency in accordance with section 1452(h) of the Safe Drinking Water Act (42 U.S.C. 300j–12(h)), plus

“(ii) the 20-year need identified in the most recent needs survey submitted by the Administrator pursuant to sections 205(a), 516, and 609 of the Federal Water Pollution Control Act (33 U.S.C. 1285(a), 1375, 1389).

“(c) EXPENDITURES.—Amounts in the Trust Fund are available, without further appropriation and without fiscal year limitation, for the purposes described in section

1 3(c) of the Water Affordability, Transparency, Equity,  
2 and Reliability Act of 2023.”.

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

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

7 (b) INCREASE IN CORPORATE TAX RATE.—

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

11 (2) EFFECTIVE DATE.—The amendment made  
12 by this subsection shall apply to taxable years begin-  
13 ning after December 31, 2022.

14 (c) ALLOCATION OF FUNDS.—The Administrator,  
15 the Secretary of Agriculture, and the Secretary of Health  
16 and Human Services shall allocate, for a fiscal year, the  
17 amount available, at the beginning of that fiscal year, in  
18 the Water Affordability, Transparency, Equity, and Reli-  
19 ability Trust Fund established by section 9512(a) of the  
20 Internal Revenue Code of 1986, as follows:

21 (1) CLEAN WATER PROGRAMS.—Of that  
22 amount, the Administrator shall use—

1 (A) 0.5 percent for making grants under  
2 section 104(b)(8) of the Federal Water Pollu-  
3 tion Control Act (33 U.S.C. 1254(b)(8));

4 (B) 1.5 percent for making grants under  
5 section 106 of that Act (33 U.S.C. 1256);

6 (C) 2.5 percent for making grants under  
7 section 226 of that Act (33 U.S.C. 1302d);

8 (D) 2.5 percent for making grants under  
9 subsections (h) and (i) of section 319 of that  
10 Act (33 U.S.C. 1329); and

11 (E) 42.25 percent for making capitaliza-  
12 tion grants under title VI of that Act (33  
13 U.S.C. 1381 et seq.).

14 (2) SAFE DRINKING WATER FUNDING.—Of that  
15 amount, the Administrator shall use—

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

19 (B) 42.25 percent for making capitaliza-  
20 tion grants under section 1452 of that Act (42  
21 U.S.C. 300j–12);

22 (C) 3 percent for making grants under sec-  
23 tion 1465 of that Act (42 U.S.C. 300j–25); and

24 (D) 0.5 percent for making grants under  
25 section 1456 of that Act (42 U.S.C. 300j–16)

1           and for making grants under section 307 of the  
2           Safe Drinking Water Act Amendments of 1996  
3           (33 U.S.C. 1281 note; Public Law 104–182).

4           (3) HOUSEHOLD WATER WELL SYSTEMS.—Of  
5           that amount, the Secretary of Agriculture shall use  
6           1 percent for making grants under section 306E of  
7           the Consolidated Farm and Rural Development Act  
8           (7 U.S.C. 1926e).

9           (4) COLONIAS.—Of that amount, the Secretary  
10          of Agriculture shall use 0.5 percent for making  
11          grants under section 306C of the Consolidated Farm  
12          and Rural Development Act (7 U.S.C. 1926e) to en-  
13          tities described in subsection (c) of that section.

14          (5) INDIAN HEALTH SERVICE.—Of that  
15          amount, the Secretary of Health and Human Serv-  
16          ices, acting through the Director of the Indian  
17          Health Service, shall use 3 percent for making  
18          grants for the planning, design, construction, mod-  
19          ernization, improvement, and renovation of water,  
20          sewer, and solid waste sanitation facilities that are  
21          funded, in whole or part, by the Indian Health Serv-  
22          ice—

23                 (A) through, or provided for in, a contract  
24                 or compact with the Indian Health Service

1 under the Indian Self-Determination and Edu-  
 2 cation Assistance Act (25 U.S.C. 5301 et seq.);

3 (B) pursuant to section 7 of the Act of Au-  
 4 gust 5, 1954 (68 Stat. 674, chapter 658; 42  
 5 U.S.C. 2004a); or

6 (C) pursuant to section 302 of the Indian  
 7 Health Care Improvement Act (25 U.S.C.  
 8 1632).

9 (d) PROHIBITION.—None of the funds allocated pur-  
 10 suant to subsection (c) may be used for any activity de-  
 11 scribed in paragraphs (1) through (5) of section 203(a)  
 12 of the Labor-Management Reporting and Disclosure Act  
 13 of 1959 (29 U.S.C. 433(a)).

14 **SEC. 4. REPORT ON AFFORDABILITY, DISCRIMINATION AND**  
 15 **CIVIL RIGHTS VIOLATIONS, PUBLIC PARTICI-**  
 16 **PATION IN REGIONALIZATION, AND DATA**  
 17 **COLLECTION.**

18 (a) STUDY.—

19 (1) IN GENERAL.—The Administrator shall con-  
 20 duct a study on water and sewer services in accord-  
 21 ance with this subsection.

22 (2) AFFORDABILITY.—In conducting the study  
 23 under paragraph (1), the Administrator shall study  
 24 water affordability across the United States, includ-  
 25 ing—

1 (A) rates for water and sewer services, in-  
2 creases in those rates during the 10-year period  
3 preceding the study, and water service dis-  
4 connections due to unpaid water service  
5 charges; and

6 (B) the effectiveness of funding under sec-  
7 tion 1452 of the Safe Drinking Water Act (42  
8 U.S.C. 300j-12) and under title VI of the Fed-  
9 eral Water Pollution Control Act (33 U.S.C.  
10 1381 et seq.) for promoting affordable, equi-  
11 table, transparent, and reliable water and sewer  
12 service.

13 (3) DISCRIMINATION AND CIVIL RIGHTS.—In  
14 conducting the study under paragraph (1), the Ad-  
15 ministrator, in collaboration with the Civil Rights  
16 Division of the Department of Justice, shall study—

17 (A) discriminatory practices of water and  
18 sewer service providers;

19 (B) discriminatory practices of State pro-  
20 gram administrators in allocating funding; and

21 (C) violations by those service providers  
22 and program administrators that receive Fed-  
23 eral assistance of civil rights under title VI of  
24 the Civil Rights Act of 1964 (42 U.S.C. 2000d



1 et seq.) with respect to equal access to water  
2 and sewer services.

3 (4) PUBLIC PARTICIPATION IN REGIONALIZA-  
4 TION.—In conducting the study under paragraph  
5 (1), the Administrator shall evaluate efforts to re-  
6 gionalize public water systems (as defined in section  
7 1401 of the Safe Water Drinking Act (42 U.S.C.  
8 300f)) and sewer services with respect to public par-  
9 ticipation in—

10 (A) the decision to undergo that 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 with respect 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;

5           (C) tax liens and foreclosures due to un-  
 6           paid water service charges; and

7           (D) disparate effects, on the basis of race,  
 8           gender, or socioeconomic status, of water serv-  
 9           ice disconnections, tax liens and foreclosures  
 10          due to unpaid water service charges, and the  
 11          lack of public water service.

12       (b) REPORT.—Not later than 1 year after the date  
 13 of enactment of this Act, the Administrator shall submit  
 14 to Congress a report that contains—

15           (1) the results of the study conducted under  
 16          subsection (a)(1); and

17           (2) recommendations for utility companies,  
 18          Federal agencies, and States relating to those re-  
 19          sults.

20 **SEC. 5. HOUSEHOLD WATER WELL SYSTEMS.**

21       Section 306E(d) of the Consolidated Farm and Rural  
 22 Development Act (7 U.S.C. 1926e(d)) is amended by  
 23 striking “\$20,000,000 for each of fiscal years 2019  
 24 through 2023” and inserting “\$348,500,000 for each fis-  
 25 cal year”.

1 **SEC. 6. USE OF STATE REVOLVING FUNDS UNDER THE FED-**  
 2 **ERAL WATER POLLUTION CONTROL ACT.**

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 “which will be  
 7 made to the State with funds to be made available”  
 8 and inserting “that were made to the State with  
 9 funds made available for fiscal year 2021”;

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

1           (2) in paragraph (12)(B), by striking the period  
2           at the end and inserting “; and”; and

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

4           “(13) 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) of the  
14          Federal Water Pollution Control Act (33 U.S.C.  
15          1383(i)(3)) is amended by striking subparagraph (B) and  
16          inserting the following:

17                   “(B) REQUIREMENT.—To the extent that  
18          there are sufficient applications, a State shall  
19          use not less than 50 percent of the total  
20          amount received by the State in capitalization  
21          grants under this title for a fiscal year for pro-  
22          viding additional subsidization under this sub-  
23          section.”.

1 **SEC. 7. USE OF STATE REVOLVING LOAN FUNDS UNDER**  
 2 **THE SAFE DRINKING WATER ACT.**

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

5 (1) in subsection (a)—

6 (A) in paragraph (2)—

7 (i) in subparagraph (A), by inserting  
 8 “publicly owned, operated, and managed”  
 9 before “community water systems”; and

10 (ii) by striking subparagraph (E) and  
 11 inserting the following:

12 “(E) ACQUISITION OF PRIVATELY OWNED  
 13 COMMUNITY WATER SYSTEMS.—The funds  
 14 under this section may be used—

15 “(i) to purchase from a willing or un-  
 16 willing seller a privately owned community  
 17 water system; and

18 “(ii) for expenses related to canceling  
 19 a contract for the operation or manage-  
 20 ment of a community water system.”; and

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

22 “(6) EXCEPTION TO PUBLIC OWNERSHIP, OPER-  
 23 ATION, AND MANAGEMENT REQUIREMENT.—Not-  
 24 withstanding paragraph (2)(A), public water systems  
 25 that regularly serve fewer than 10,000 persons and  
 26 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), by striking paragraph (2)  
 5 and inserting the following:

6 “(2) REQUIREMENT.—To the extent that there  
 7 are sufficient applications for loans to communities  
 8 described in paragraph (1), of the amount of the  
 9 capitalization grant received by a State in a fiscal  
 10 year, the total amount of loan subsidies made by the  
 11 State in the fiscal year pursuant to paragraph (1)  
 12 may not be less than 50 percent.”;

13 (3) in subsection (e), by striking “to be made  
 14 to the State” and inserting “that was made to the  
 15 State in fiscal year 2021”;

16 (4) in subsection (g)(3)—

17 (A) by redesignating subparagraphs (A)  
 18 through (C) as clauses (i) through (iii), respec-  
 19 tively, and indenting appropriately;

20 (B) in the undesignated matter following  
 21 clause (iii) (as so redesignated), by striking  
 22 “The guidance and regulations shall also” and  
 23 inserting the following:

1           “(B) GENERALLY ACCEPTED ACCOUNTING  
2 STANDARDS.—The guidance and regulations re-  
3 quired under subparagraph (A) shall”;

4           (C) in the matter preceding clause (i) (as  
5 so redesignated), by striking “The Adminis-  
6 trator” and inserting the following:

7           “(A) IN GENERAL.—The Administrator”;  
8 and

9           (D) in subparagraph (A) (as so des-  
10 ignated)—

11           (i) in clause (ii) (as so redesignated),  
12 by striking “and” at the end;

13           (ii) in clause (iii) (as so redesignated),  
14 by striking the period at the end and in-  
15 serting “; and”; and

16           (iii) by inserting after clause (iii) the  
17 following:

18           “(iv) guidance to ensure affordable,  
19 equitable, transparent and reliable water  
20 service provision, to provide protections for  
21 households facing service disconnection due  
22 to unpaid water service charges, and to  
23 promote universal equal access to water  
24 services.”; and

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

3           “(E) Provide assistance in the form of a  
4     grant to owners of private property on which a  
5     lead service line (as defined in section  
6     1459B(a)) is or may be located, for the purpose  
7     of replacing the lead service line with a service  
8     line that is lead free (as defined in section  
9     1417(d)).

10          “(F) Provide assistance to a publicly  
11     owned, operated, and managed community  
12     water system for the purpose of updating treat-  
13     ment plants or switching water sources due to  
14     contamination from a perfluoroalkyl or  
15     polyfluoroalkyl substance (as defined by the  
16     State in which the community water system is  
17     located).

18          “(G) Provide assistance in the form of a  
19     grant to owners of a household water well that  
20     has been contaminated by a perfluoroalkyl or  
21     polyfluoroalkyl substance (as defined by the  
22     State in which the household well is located) for  
23     the purpose of purchasing and installing a  
24     household filtration system.”.



1 **SEC. 8. DRINKING WATER GRANT PROGRAMS.**

2 (a) SCHOOL DRINKING WATER IMPROVEMENT.—

3 Section 1465 of the Safe Drinking Water Act (42 U.S.C.  
4 300j-25) is amended—

5 (1) in the section heading, by striking “**FOUN-**  
6 **TAIN**” and inserting “**INFRASTRUCTURE**”;

7 (2) in subsection (a), by striking “fountains  
8 manufactured prior to 1988” and inserting “infra-  
9 structure”;

10 (3) by striking subsection (b) and inserting the  
11 following:

12 “(b) USE OF FUNDS.—Funds awarded under the  
13 grant program may be used to pay costs associated with—

14 “(1) installing, repairing, or replacing the infra-  
15 structure necessary to ensure that drinking water  
16 fountains, drinking water coolers, and bottle filling  
17 stations at schools are lead free (as defined in sec-  
18 tion 1417(d)); and

19 “(2) monitoring and reporting of lead levels in  
20 the drinking water of schools, as determined appro-  
21 priate by the Administrator.”; and

22 (4) in subsection (d)—

23 (A) by striking “\$5,000,000” and inserting  
24 “\$1,050,000,000”; and

25 (B) by striking “2019 through 2021” and  
26 inserting “2024 and 2025”.

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

4 (1) by striking “1 1/2” and inserting “3”; and  
 5 (2) by striking “may” and inserting “shall”.

6 **SEC. 9. LABOR PROVISIONS.**

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

15 (b) PROJECT LABOR AGREEMENTS.—

16 (1) CLEAN WATER REVOLVING FUNDS.—Sec-  
 17 tion 602(b) of the Federal Water Pollution Control  
 18 Act (33 U.S.C. 1382(b)) (as amended by section  
 19 6(a)), is amended by adding at the end the fol-  
 20 lowing:

21 “(16) the State will—

22 “(A) permit recipients of assistance under  
 23 this title to enter into agreements authorized  
 24 under section 8(f) of the National Labor Rela-  
 25 tions Act (29 U.S.C. 158(f)) (commonly known

as ‘project labor agreements’) with respect to projects for building or construction carried out with that assistance; and

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

(2) DRINKING WATER REVOLVING FUNDS.—

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

(A) in subsection (a) (as amended by section 7(1)(B)), by adding at the end the following:

“(7) PROJECT LABOR AGREEMENTS.—Each agreement under this subsection shall require that the State permit recipients of assistance under this section to enter into agreements authorized under section 8(f) of the National Labor Relations Act (29 U.S.C. 158(f)) (commonly known as ‘project labor agreements’) with respect to projects for building or construction carried out with that assistance.”; and

(B) in subsection (b)(3)(A)—

(i) in clause (ii), by striking “and” at the end;

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 (29 U.S.C. 158(f)) (com-  
 10 monly known as ‘project labor agree-  
 11 ments’).”.

12 **SEC. 10. DRINKING WATER ASSISTANCE TO COLONIAS.**

13 Section 1456 of the Safe Drinking Water Act (42  
 14 U.S.C. 300j–16) is amended—

15 (1) in subsection (a)—

16 (A) by redesignating paragraph (2) as  
 17 paragraph (3); and

18 (B) by inserting after paragraph (1) the  
 19 following:

20 “(2) COVERED ENTITY.—The term ‘covered en-  
 21 tity’ means each of the following:

22 “(A) A border State.

23 “(B) A local government with jurisdiction  
 24 over an eligible community.”;

25 (2) in subsection (b)—

1 (A) by striking “of the Environmental Pro-  
2 tection Agency”; and

3 (B) by striking “border State” and insert-  
4 ing “covered entity”;

5 (3) by striking subsection (d);

6 (4) by redesignating subsection (e) as sub-  
7 section (d); and

8 (5) in subsection (d) (as so redesignated)—

9 (A) by striking “\$25,000,000” and insert-  
10 ing “\$100,000,000”; and

11 (B) by striking “1997 through 1999” and  
12 inserting “2023 through 2027”.

○