

## Calendar No. 452

116TH CONGRESS }  
2d Session }

SENATE

{ REPORT  
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### DRINKING WATER INFRASTRUCTURE ACT OF 2020

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OCTOBER 23 (legislative day, OCTOBER 19), 2020.—Ordered to be printed

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Mr. BARRASSO, from the Committee on Environment and Public Works, submitted the following

### R E P O R T

[To accompany S. 3590]

[Including cost estimate of the Congressional Budget Office]

The Committee on Environment and Public Works, to which was referred the bill (S. 3590) to amend the Safe Drinking Water Act to reauthorize certain provisions, and for other purposes, having considered the same, reports favorably thereon with an amendment in the nature of a substitute and recommends that the bill, as amended, do pass.

#### GENERAL STATEMENT AND BACKGROUND

The Drinking Water Infrastructure Act of 2020 (DWIA), creates, updates, and improves Environmental Protection Agency (EPA) programs associated with drinking water infrastructure under the Safe Drinking Water Act (SDWA).

DWIA reauthorizes critical SDWA programs to promote compliance with drinking water standards, reform drinking water programs, and promote resilience of drinking water systems. This bill expands program eligibility and opportunities for small, rural, tribal and disadvantaged communities. The bill also enhances lead reduction programs, increases funding for the treatment of emerging contaminants including perfluoroalkyl and polyfluoroalkyl substances, increases funding for technical assistance, and authorizes grants to assist communities and drinking water systems with SDWA compliance.

A water resources development act (WRDA) is the authorizing legislation for the programs and projects of the Corps' Civil Works program. In recent years, WRDA legislation has been a vehicle for

authorizing critical EPA programs for water, wastewater and drinking water, as shown by the Committee in America's Water Infrastructure Act of 2018 (AWIA 2018) (PL 115–270). Ideally, WRDA legislation is enacted every two years. This year, the Committee developed and reported two legislative vehicles for items that have recently been authorized in WRDA legislation: DWIA, which reauthorizes, modifies, and creates programs under the SDWA; and America's Water Infrastructure Act of 2020 (AWIA 2020), which authorizes the Corps' Civil Works program, as well as water and wastewater infrastructure programs under the Clean Water Act.

#### *Objectives of the Legislation*

The objective of S. 3590 is to authorize and modify drinking water programs to meet the nation's drinking water infrastructure needs. It will help increase access to, and ensure delivery of, safe, reliable drinking water by facilitating critical water infrastructure, technical assistance, and financial assistance programs.

#### *Summary of the Major Provisions*

To achieve these objectives, S. 3590:

- Increases funding for the Assistance for Small and Disadvantaged Communities grant program, as well as creates an additional discretionary grant program for states with high demonstrated need.
- Funds technical assistance and grants for emergencies affecting public water systems.
- Codifies appropriations language that requires states to use 14 percent of its capitalization grant to provide loan forgiveness, negative interest loans or grants.
- Authorizes new and existing programs to address lead contamination, including expanding testing opportunities for schools and daycare centers and utilizing lead mapping to decrease the presence of lead in communities.
- Improves the operational sustainability of small public water systems by improving the ability to identify and correct infrastructure failures.
- Helps small and medium communities combat the effects of a changing climate by funding Infrastructure Resiliency and Sustainability grant programs.
- Provides investment in new and emerging, but proven technologies that can help utilities reduce costs and increase energy efficiency.
- Creates a discretionary grant program to provide utilities an additional funding source to finance project completion.
- Instructs EPA to promulgate national primary drinking water regulations (NPDWR), at a minimum for both perfluoroalkyl (PFOA) and polyfluoroalkyl (PFOS) substances and provides additional funding for remediation of these chemicals.

#### *Other Noteworthy Provisions*

The Committee has heard concerns from communities of all sizes that loans, loan forgiveness, reverse loans and other mechanisms, such as the state revolving loan funds, are insufficient to address growing water infrastructure needs. In response, this bill creates a

Drinking Water Infrastructure Discretionary Grant Program, established outside of the DWSRF, to fulfill this unmet need.

DWIA also reauthorizes the Research, Technical Assistance, Information, Training of Personnel emergency situations grant program for the first time since 2002 (P.L. 107–188). This program allows the Administrator to provide technical assistance and to make grants to states, or publicly owned water systems to assist in responding to and alleviating any emergency situation affecting public water systems (including sources of water for such systems) which the Administrator determines to present substantial danger to the public health. Given the growing problems with drinking water contaminants, including but not limited to lead, per- and polyfluoroalkyl substances (PFAS), and 1,4-dioxane, as well as the continued response to the COVID–19 pandemic, the Committee included an authorization for this program in order to ensure adequate resources are available to meet current and future drinking water emergencies.

#### SECTION-BY-SECTION ANALYSIS

##### *Sec. 1. Short title*

This section states that the Act may be cited as “Drinking Water Infrastructure of 2020”.

##### *Sec. 2. Host communities*

This section amends Section 1433(g) of SDWA (42 U.S.C. 300i–2(g)) to make additional cities eligible under the Drinking Water Infrastructure Risk and Resilience Program. This program was established in AWIA 2018. This section makes cities eligible for the program that, as a result of a natural disaster or act of terrorism, take on an influx of population.

##### *Sec. 3. Technical assistance and grants for emergencies affecting public water systems*

This section reauthorizes Section 1442 of SDWA (42 U.S.C. 300j–1) to provide crucial resources to communities facing drinking water emergencies, such as an intrusion of lead into the drinking water supply. The program is authorized at \$35 million for each fiscal year 2021 through 2024. In addition, this section extends the current \$15 million per fiscal year authorization for the technical assistance program that serves public water systems for the same duration. This section also allows the Administrator to provide technical assistance to small public water systems. Specifically, this section allows state-based non-profit organizations that are governed by community water systems to receive grants to provide such technical assistance.

##### *Sec. 4. Drinking water state revolving loan funds*

This section would make permanent language found in Title II of the Further Consolidated Appropriations Act, 2020 (P.L. 116–94). The language requires states to use 14 percent of Drinking Water State Revolving Loan Funds (DWSRF) to provide additional subsidies in the form of grants, negative interest loans, forgiveness of principal of loans, or to buy, refinance or restructure debt. States, with concurrence of the Administrator, may use more than

14 percent of DWSRF dollars for this purpose if those funds could be used to address a threat to public health from heightened exposure to contaminants in drinking water or to respond to a declared state or federal drinking water emergency.

This gives each state the ability to help communities that are struggling financially to meet or maintain compliance as well as build and update drinking water infrastructure.

This section also reauthorizes section 1452 of SDWA (42 U.S.C. 300j-12), which allows states to use up to two percent of its funding for technical assistance from nonprofit organizations to provide assistance to these systems to achieve compliance. This section also makes permanent a requirement in section 2022 of AWIA 2018 that only iron and steel sourced from America be used in projects funded through the DWSRF, also known a “Buy America” requirement.

This section also authorizes \$300 million in grants to assist in the remediation of contamination from emerging contaminants, with a focus on perfluoroalkyl and polyfluoroalkyl substances.

#### *Sec. 5. Source Water Petition Program*

The section reauthorizes the Source Water Petition Program (42 U.S.C. 300j-14). This program allows owners and operators of community water systems, municipal or local governments and political subdivisions of a state to petition the state for a source water quality protection partnership. These partnerships help affected parties reduce drinking water contamination, obtain financial or technical assistance, or develop recommendations for the long-term protection of a community water system’s source water. This section also amends the program to allow states to designate a county to act on behalf of an unincorporated area, should the unincorporated area chose to enter such a partnership solely for the purpose of pursuing a source water petition. This program is reauthorized through 2024 at the current funding levels of \$5 million.

#### *Sec. 6. Assistance for Small and Disadvantaged Communities*

This section expands the authorized used of funds under the Assistance for Small and Disadvantaged Communities program under Section 1459A of SDWA (42 U.S.C. 300j-19a). This section allows states to distribute grants for the purchase of filters that remove contaminants of concern from public drinking water systems; to provide information regarding proper filtration, maintenance, and options regarding replacing lead service lines or addressing other sources of lead from water systems; and for technical assistance. Further, this section lowers the required non-federal match for a grant received under the Assistance for Small and Disadvantaged Communities program from forty-five percent to ten percent and allows for a non-federal match to be waived at the discretion of the Administrator. This provision extends the program’s authorization from 2022 through 2024 and increases the authorization from \$60 million to \$100 million for each fiscal year.

This section also creates a new, separate competitive grant for small and disadvantaged communities. This program is distributed to states based on demonstrated high proportions of underserved communities, rather than a State Revolving Loan Fund (SRF) for-

mula. This grant program is authorized at \$50 million for each fiscal year 2021 through 2024.

This section also reauthorizes the existing Drinking Water Infrastructure Risk and Resiliency program (42 U.S.C. 300j–19a) from 2021 through 2024, and increases the program’s authorization from \$4 million to \$10 million for each fiscal year. This includes a non-federal cost share of ten percent, which may be waived by the Administrator.

Finally, this section authorizes a new grant program to provide grants to a utility or nonprofit to voluntarily connect a low-income household to a municipal public drinking water system. This program is authorized at \$20 million for each fiscal year 2021 and 2022. These grants are intended to improve the general welfare of low and moderate income individuals without access to drinking water services. Therefore, the Committee believes these funds should not be considered taxable income.

*Sec. 7. Reducing lead in drinking water*

This section amends Section 1459B of SDWA (42 U.S.C. 300j–19b) to create a pilot grant program for drinking water system operators that know through lead mapping that the system has, or is likely to have, at least 30 percent of service lines that contain lead. The grant money can be used for lead reduction projects, including the replacement of publically owned lead services lines; testing, planning, or other relevant activities, as determined by the Administrator, to identify and address conditions (including corrosion control) that contribute to increased concentration of lead in water for human consumption; and providing assistance to low-income homeowners to replace lead service lines.

Two years after the first grant is awarded, the EPA must submit a report to Congress detailing the recipients of this grant money, what type of lead mapping was used, and how accurate and useful the mapping was in locating the lead contamination. The pilot program is authorized at \$10 million and the funds are to remain available until expended.

*Sec. 8. Operational sustainability of small public water systems*

This section establishes a new operational sustainability program under SDWA (42 U.S.C. 300j et seq.) for small public water systems, including those owned by an Indian Tribe. The program is designed to help improve the ability of such systems to respond to water infrastructure failures. By improving asset management of drinking water systems, pumps, wells, valves, treatment systems and other pertinent activities, operators will be able to identify and reduce system failures. Those failures include, but are not limited to, the identification and prevention of potable water loss due to leaks, breaks and other metering or infrastructure and system failures. This program has a non-federal share of ten percent, waivable by the Administrator, and is authorized at \$10 million for each fiscal year 2021 through 2024.

*Sec. 9. Midsize drinking water system infrastructure resilience and sustainability program*

This section creates a program modeled off of section 2005 of AWIA 2018. This section mirrors that EPA grant program for in-

creased resiliency and sustainability for drinking water projects in small and disadvantaged communities, and creates a new program for mid-sized systems that serve a population between 10,000 and 100,000. Funds may be used to conserve water, enhance water-efficiency, create desalination facilities, relocate or renovate existing vulnerable water systems, enhance water supply, and implement measures to increase resiliency. This program is authorized at \$10 million for each fiscal years 2021 through 2024.

*Sec. 10. Needs assessment for nationwide rural and urban low-income community water assistance*

This section requires the Administrator, in consultation with relevant stakeholders, to study the prevalence of low-income households in the United States without affordable public drinking water services. This report must include recommendations to increase access to these services and determine the associated costs of each recommendation. This section authorizes \$5 million to conduct the study.

*Sec. 11. Lead contamination in school drinking water*

This section amends the existing Voluntary School and Childcare Lead Testing Grant Program, authorized in Section 1464 of SDWA (42 U.S.C. 300j-24), to make public water systems, tribes, and eligible nonprofit organizations that service schools and childcare locations eligible grant recipients. The program authorization is extended through fiscal year 2022 at the current funding level of \$25 million annually.

*Sec. 12. Indian Reservation Drinking Water Program*

This section amends the Tribal Drinking Water Program established in AWIA 2018 and extends the authorization of the program to fiscal year 2024. It increases the authorization for the pilot program to \$50 million. It requires 50 percent of the program's funds to be used nationally and the other 50 percent of funds to be used for thirty projects equally divided between the Missouri River Basin, Upper Rio Grande River Basin, and Columbia River Basin. In addition, two projects in the Missouri River Basin must be allocated to a reservation that serves more than one federally-recognized tribe.

*Sec. 13. Advanced drinking water technologies*

This section requires the Administrator of the EPA to carry out a study, within one year of the date of enactment, to examine the state of existing and emerging technology that enhances or could enhance the treatment, monitoring, affordability, efficiency, and safety of drinking water provided by public water systems.

This section also creates a grant program for public water systems that serve a population of up to 100,000 people, or a disadvantaged community. The grant program is designed to identify and deploy drinking water infrastructure technology that is new or emerging (but proven) to enhance the treatment, monitoring, affordability, efficiency, and safety of the drinking water provided. There is a ten percent non-federal share, waivable by the Administrator, and a single grant cannot exceed \$500,000. This program is authorized at \$10 million for each fiscal year 2021 through 2024.

*Sec. 14. Drinking water infrastructure discretionary grant program*

This section creates a new grant program to be administered by the EPA under the SDWA. This grant program is modeled after the state revolving funds, which are mostly loans. These discretionary grants may be used for expenditures for planning, design, siting, and associated preconstruction activities, or for replacing or rehabilitating aging treatment, storage, or distribution facilities of public water systems, that will facilitate compliance with national primary drinking water regulations or otherwise significantly further health protections. It also makes resiliency projects an eligible use of funds. These grants may not be used for monitoring, operation, and maintenance expenditures, and priority is given to public water systems that need help coming into compliance with the SDWA and to projects that need an additional source of funding to achieve completion. Projects that have received prior federal funding are still eligible to apply. This program has a waivable non-federal share of 20 percent. No state may receive more than twenty percent of the total amount made available each year for this program. This section requires the EPA to submit a report to Congress on this program not later than two years after the date of enactment. This program is authorized at \$50 million for each fiscal year 2022 through 2024.

*Sec. 15. Drinking water infrastructure grants*

This section creates a grant program to support improvements in reducing and removing plastic waste and post-consumer materials, including microplastics and microfibers, from drinking water. This program is authorized at \$10 million for each fiscal year 2021 through 2025.

*Sec. 16. Perfluoroalkyl and polyfluoroalkyl substances*

This section requires the Administrator of the EPA to promulgate national primary drinking water regulations (NPDWR), at a minimum for both perfluorooctanoic acid (PFOA) and perfluorooctane sulfonic acid (PFOS). It instructs the Administrator to publish any validated equally effective quality control and testing procedure or other methods to detect and monitor per- or polyfluoroalkyl substances (PFAS) in the Federal Register within one year after validating the method or procedure.

This section instructs the Administrator to tailor PFAS monitoring requirements for systems that do not detect or are reliably and consistently below the maximum contaminant levels for these chemicals. This allows for more flexible testing schedules and requirements for those who do not have a significant contamination problem.

This section allows the Administrator to go through the existing SDWA regulatory determination process to evaluate other PFAS substances. However, it expedites the process so that the Administrator may make a determination of whether or not to regulate PFAS chemicals within 18 months after the substance is listed on the Contaminant Candidate List, and after receiving either the monitoring results from the unregulated contaminants monitoring rule (UCMR), or reliable water data, or completed water monitoring surveys, which the Administrator has concluded provides a sufficient basis for a regulatory determination for that PFAS sub-

stance. After the Administrator has determined to regulate a PFAS substance, the Administrator shall propose an NPDWR within 18 months, and may publish the proposed NDWR at the same time the Administrator publishes the decision to regulate. The Administrator has one year after publishing the NPDWR proposal in the Federal Register to finalize the regulation. This may be extended for an additional six months.

The section directs the Administrator to establish a health advisory for any PFAS substance or class of substances within one year after finalizing a toxicity value and a finalized effective quality control and testing method for these substances, unless the Administrator publishes in the Federal Register a determination (with an explanation) that the substances will not occur in drinking water with sufficient frequency to justify publication of such an advisory.

This section also prevents the Administrator from imposing financial penalties on water systems for a violation of any PFAS substance NPDWR until five years after the effective date of its regulation.

#### LEGISLATIVE HISTORY

On May 4, 2020, Senator Barrasso, Chairman of the Committee on Environment and Public Works, introduced S. 3590, Drinking Water Infrastructure Act of 2020. Senators Carper, Cramer, and Duckworth were original cosponsors of the legislation. The bill was referred to the Committee on Environment and Public Works.

On May 6, 2020, the Committee on Environment and Public Works conducted a business meeting to consider S. 3590. The Committee ordered S. 3590 to be favorably reported with an amendment in the nature of a substitute by a unanimous roll call vote of 21 to 0. In addition, the Committee agreed by unanimous consent to make a part of the official business meeting record the full record of stakeholder comments gathered by the Committee during an information-gathering process entitled, “*An Information-Gathering Process on Draft Legislation entitled, America’s Water Infrastructure Act of 2020 and The Drinking Water Infrastructure Act of 2020: Stakeholder Comments,*” which the Committee conducted from April 22, 2020 to May 1, 2020.

#### HEARINGS

During the 116th Congress, the Committee on Environment and Public Works has held hearings to conduct oversight on implementation of AWIA 2018, and to hear from stakeholders regarding which water infrastructure priorities should be addressed in 2020, including:

May 22, 2019, Full Committee Hearing: “*Examining legislation to address the risks associated with per- and polyfluoroalkyl substances (PFAS).*”

October 23, 2019, Full Committee Hearing: “*Improving American Economic Competitiveness through Water Resources Infrastructure: Federal Panel.*”

#### ROLLCALL VOTES

The Committee on Environment and Public Works met to consider S. 3590 on May 6, 2020. The bill, with an amendment in the



nature of a substitute, was ordered to be favorably reported by a roll call vote of 21 to 0.

*Amendments approved*

The following amendment to the amendment in the nature of a substitute to S. 3590 was approved by voice vote:

Barrasso-Carper #2—This amendment contained technical corrections, additions based on stakeholder feedback, and clarifications of the underlying substitute amendment. The amendment clarified that funds for the remediation of contamination may be used only for emerging contaminants, ensuring consistency with the existing drinking water remediation program. The amendment expanded eligible entities under a provision regarding operational sustainability in Section 8 of the bill to include Native American tribes. The amendment clarified in Section 13 of the bill that the mission of the Advanced Drinking Water Technology Program is to “enhance treatment, monitoring, affordability, efficiency, or safety of the drinking water;” struck the limit on the amount of each grant; and allowed funds to be used to assist systems in identifying opportunities to employ advanced drinking water technologies. The amendment added language in Section 14 of the bill to clarify that a discretionary grant program does not increase a state’s bonding authority.

*Final committee vote to report*

S. 3590, with an amendment in the nature of a substitute, as amended by Barrasso-Carper #2, was ordered to be favorably reported by a roll call vote of 21 to 0 (Senators Booker, Boozman, Braun, Capito, Cardin, Carper, Cramer, Duckworth, Ernst, Gillibrand, Inhofe, Markey, Merkley, Rounds, Sanders, Shelby, Sullivan, Van Hollen, Whitehouse, Wicker, and Barrasso voted aye).

REGULATORY IMPACT STATEMENT

In compliance with section 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee finds that S. 3590 does not create any additional regulatory burdens, nor will it cause any adverse impact on the personal privacy of individuals.

MANDATES ASSESSMENT

In compliance with the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104–4), the Committee notes that the Congressional Budget Office found that S. 3590 contains intergovernmental and private-sector mandates as defined in the UMRA and would impose costs on state, local, or tribal governments.

COST OF LEGISLATION

Section 403 of the Congressional Budget and Impoundment Control Act requires that a statement of the cost of the reported bill, prepared by the Congressional Budget Office, be included in the report. That statement follows:

U.S. CONGRESS,  
 CONGRESSIONAL BUDGET OFFICE,  
 Washington, DC, October 19, 2020.

Hon. JOHN BARRASSO,  
 Chairman, Committee on Environment and Public Works,  
 U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 3590, the Drinking Water Infrastructure Act of 2020.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Stephen Rabent.

Sincerely,

PHILLIP L. SWAGEL,  
 Director.

Enclosure.

At a Glance			
S. 3590, Drinking Water Infrastructure Act of 2020			
As reported by the Senate Committee on Environment and Public Works on May 11, 2020			
By Fiscal Year, Millions of Dollars	2021	2021-2025	2021-2030
Direct Spending (Outlays)	0	0	0
Revenues	0	0	0
Increase or Decrease (-) in the Deficit	0	0	0
Spending Subject to Appropriation (Outlays)	77	1,970	not estimated
Statutory pay-as-you-go procedures apply?	No	Mandate Effects	
Increases on-budget deficits in any of the four consecutive 10-year periods beginning in 2031?	No	Contains intergovernmental mandate?	Yes, Over Threshold
		Contains private-sector mandate?	Yes, Over Threshold

The bill would

- Authorize appropriations for the Environmental Protection Agency (EPA) to establish new grant programs
  - Make changes to and authorize appropriations for several existing EPA grant programs
  - Direct EPA to issue a national primary drinking water regulation for some perfluoroalkyl and polyfluoroalkyl substances (PFAS)
  - Direct EPA to conduct studies and issue guidance
  - Impose intergovernmental and private-sector mandates by requiring public water systems to comply with new rules controlling the concentrations of PFAS in drinking water
- Estimated budgetary effects would primarily stem from
- Specified authorizations of appropriations for EPA
  - EPA's administrative costs

Bill summary: S. 3590 would authorize appropriations for the Environmental Protection Agency (EPA) to fund 17 grant programs aimed at improving the quality of drinking water. The bill also would direct EPA to issue a national primary drinking water regulation, which would establish legally enforceable limits on concentrations of certain perfluoroalkyl and polyfluoroalkyl substances

(PFAS) in drinking water.<sup>1</sup> In addition, S. 3590 would direct EPA to study access to affordable supplies of drinking water, issue new guidance and testing protocols for lead contamination, and report on new technologies to enhance the treatment, safety, and affordability of drinking water.

Estimated Federal cost: The estimated budgetary effect of S. 3590 is shown in Table 1. The costs of the legislation fall within budget function 300 (natural resources and environment).

TABLE 1.—ESTIMATED INCREASES IN SPENDING SUBJECT TO APPROPRIATION UNDER S. 3590

	By fiscal year, millions of dollars—					2021– 2025
	2021	2022	2023	2024	2025	
Grant Programs:						
Authorization .....	395	650	540	540	10	2,135
Estimated Outlays .....	62	283	481	553	475	1,854
Other Costs:						
Estimated Authorization .....	30	26	26	26	10	118
Estimated Outlays .....	15	27	26	26	22	116
Total Changes:						
Estimated Authorization .....	425	676	566	566	20	2,253
Estimated Outlays .....	77	310	507	579	497	1,970

Components may not sum to totals because of rounding.

Basis of estimate: For this estimate, CBO assumes that S. 3590 will be enacted early in fiscal year 2021, that the authorized and estimated amounts will be appropriated for each fiscal year, and that spending will follow historical patterns for similar projects and programs.

#### *Grant Programs*

S. 3590 would authorize appropriations totaling \$2.1 billion over the 2021–2025 period for EPA to fund new or existing grant programs as detailed below:

- For states to address groundwater contamination with a focus on contamination by PFAS (\$800 million);
- For public water systems and water quality programs in small and disadvantaged communities (\$500 million);
- For lead reduction, advanced technologies, operational sustainability for small water systems, and other purposes (about \$500 million); and
- For grants for drinking water infrastructure projects, projects to increase the resilience of drinking water systems in the face of natural hazards, and projects to reduce and remove plastic waste in drinking water (\$280 million).

Using information from EPA, CBO estimates that implementing those grant programs would cost about \$1.9 billion over the 2021–2025 period and about \$200 million after 2025.

#### *Other Costs*

In addition, EPA would incur administrative costs to establish and operate the programs authorized under S. 3590 because gen-

<sup>1</sup>PFAS constitute a group of hundreds of synthetic products manufactured and used by a variety of industries and in many consumer products. PFAS tend to persist in the environment and in the human body. See Environmental Protection Agency, “PFOA, PFOS and Other PFASs, EPA Basic Information on PFAS” (accessed October 19, 2020) [www.epa.gov/pfas/basic-information-pfas](http://www.epa.gov/pfas/basic-information-pfas).

erally the agency is not authorized to cover those costs using grant funds. Using information from EPA, CBO estimates that the agency would eventually require about 45 additional employees, at a cost of \$180,000 each, on average, to develop and administer the grant programs. Those costs would total about \$37 million over the 2021–2025 period.

S. 3590 would authorize the appropriation of \$5 million for EPA to study impediments in access to affordable drinking water faced by low-income households. The bill also would authorize the appropriation of \$15 million annually over the 2021–2024 period for EPA to provide technical assistance to help small water systems comply with the National Primary Drinking Water regulations. CBO estimates that implementing those provisions would cost \$65 million over the 2021–2025 period.

S. 3590 would direct EPA to issue a national primary drinking water regulation for two specific types of PFAS and for other contaminants that meet certain criteria.<sup>2</sup> Using information from EPA, CBO estimates that issuing those regulations would cost about \$3 million annually, or \$14 million over the 2021–2025 period, for the agency to conduct studies, gather information, and undertake rulemakings.

Pay-As-You-Go considerations: None.

Increase in long-term deficits: None.

Mandates: S. 3590 contains intergovernmental and private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA). CBO estimates that the aggregate cost of the mandates would exceed the annual thresholds established in UMRA of \$84 million and \$168 million, respectively, in 2020 (adjusted annually for inflation).

By requiring EPA to issue new regulations for PFAS concentrations in drinking water, the bill would impose a mandate on owners and operators of public water systems that are regulated by the Safe Water Drinking Act. To comply with the new regulations, all water systems, regardless of ownership, would be required to meet standards for water testing, monitoring, and treatment that would entail both capital expenditures and ongoing costs for operations and maintenance. (Approximately 32,000 water systems owned and operated by public entities serve nearly 90 percent of the U.S. population; about 35,000 smaller systems, many serving fewer than 500 people, are owned by private entities.)

EPA has not established the new regulations; therefore, CBO has no basis on which to estimate the extent of investments necessary for compliance. However, because more than 67,000 public water systems would be subject to the new regulations, CBO expects that the capital and other costs for monitoring, treating, and removing PFAS from drinking water could exceed several billion dollars in the first five years the mandate would be in effect.

Previous CBO estimate: On November 25, 2019, CBO published a cost estimate for S. 1507, the PFAS Release Disclosure and Protection Act of 2019, as reported by the Senate Committee on Environment and Public Works on June 19, 2019. Section 201 of that bill is similar to section 16 of S. 3590. However, on March 10, 2020,

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<sup>2</sup>National primary drinking water regulations are legally enforceable standards and treatment techniques that public water systems must follow to limit certain contaminant concentrations in drinking water.

EPA took actions under current law to regulate certain PFAS; those actions are similar to what would be required under both pieces of legislation. The estimated costs of implementing S. 3590 reflects that change in regulations and the conclusion of fiscal year 2020.

Estimate prepared by: Federal costs: Stephen Rabent; Mandates: Lilia Ledezma.

Estimate reviewed by: Susan Willie, Chief, Natural and Physical Resources Cost Estimates Unit; Kathleen FitzGerald, Chief, Public and Private Mandates Unit; H. Samuel Papenfuss, Deputy Director of Budget Analysis; Theresa Gullo, Director of Budget Analysis.

CHANGES IN EXISTING LAW

In compliance with section 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill as reported are shown as follows: Existing law proposed to be omitted is enclosed in [black brackets], new matter is printed in *italic*, existing law in which no change is proposed is shown in roman:

\* \* \* \* \*

**SAFE DRINKING WATER ACT-(TITLE XIV OF PUBLIC HEALTH SERVICE ACT**

\* \* \* \* \*

TITLE XIV—SAFETY OF PUBLIC WATER SYSTEMS

SEC. 1400. This title may be cited as the “Safe Drinking Water Act”.

PART A—DEFINITIONS

\* \* \* \* \*

NATIONAL DRINKING WATER REGULATIONS

SEC. 1412. (a)(1) \* \* \*

\* \* \* \* \*

(b) STANDARDS.—

(1) IDENTIFICATION OF CONTAMINANTS FOR LISTING.—

(A) GENERAL AUTHORITY.— \* \* \*

\* \* \* \* \*

(15) VARIANCE TECHNOLOGIES.—

(A) IN GENERAL.— \* \* \*

\* \* \* \* \*

(16) PERFLUOROALKYL AND POLYFLUOROALKYL SUBSTANCES.—

(A) IN GENERAL.—*Not later than 2 years after the date of enactment of this paragraph, the Administrator shall, after notice and opportunity for public comment, promulgate a national primary drinking water regulation for perfluoroalkyl and polyfluoroalkyl substances, which shall, at a minimum, include standards for—*

*(i) perfluorooctanoic acid (commonly referred to as ‘PFOA’); and*

(ii) *perfluorooctane sulfonic acid (commonly referred to as 'PFOS')*.

**(B) ALTERNATIVE PROCEDURES.—**

(i) **IN GENERAL.**—*Not later than 1 year after the validation by the Administrator of an equally effective quality control and testing procedure to ensure compliance with the national primary drinking water regulation promulgated under subparagraph (A) to measure the levels described in clause (ii) or other methods to detect and monitor perfluoroalkyl and polyfluoroalkyl substances in drinking water, the Administrator shall add the procedure or method as an alternative to the quality control and testing procedure described in such national primary drinking water regulation by publishing the procedure or method in the Federal Register in accordance with section 1401(1)(D).*

(ii) **LEVELS DESCRIBED.**—*The levels referred to in clause (i) are—*

*(I) the level of a perfluoroalkyl or polyfluoroalkyl substance;*

*(II) the total levels of perfluoroalkyl and polyfluoroalkyl substances; and*

*(III) the total levels of organic fluorine.*

**(C) INCLUSIONS.**—*The Administrator may include a perfluoroalkyl or polyfluoroalkyl substance or class of perfluoroalkyl or polyfluoroalkyl substances on—*

*(i) the list of contaminants for consideration of regulation under paragraph (1)(B)(i), in accordance with such paragraph; and*

*(ii) the list of unregulated contaminants to be monitored under section 1445(a)(2)(B)(i), in accordance with such section.*

**(D) MONITORING.**—*When establishing monitoring requirements for public water systems as part of a national primary drinking water regulation under subparagraph (A) or subparagraph (F)(ii), the Administrator shall tailor the monitoring requirements for public water systems that do not detect or are reliably and consistently below the maximum contaminant level (as defined in section 1418(b)(2)(B)) for the perfluoroalkyl or polyfluoroalkyl substance or class of perfluoroalkyl or polyfluoroalkyl substances subject to the national primary drinking water regulation.*

**(E) HEALTH RISK REDUCTION AND COST ANALYSIS.**—*In meeting the requirements of paragraph (3)(C), the Administrator may rely on information available to the Administrator with respect to 1 or more specific perfluoroalkyl or polyfluoroalkyl substances to extrapolate reasoned conclusions regarding the health risks and effects of a class of perfluoroalkyl or polyfluoroalkyl substances of which the specific perfluoroalkyl or polyfluoroalkyl substances are a part.*

**(F) REGULATION OF ADDITIONAL SUBSTANCES.—**

(i) **DETERMINATION.**—*The Administrator shall make a determination under paragraph (1)(A), using the cri-*

teria described in clauses (i) through (iii) of that paragraph, whether to include a perfluoroalkyl or polyfluoroalkyl substance or class of perfluoroalkyl or polyfluoroalkyl substances in the national primary drinking water regulation under subparagraph (A) not later than 18 months after the later of—

(I) the date on which the perfluoroalkyl or polyfluoroalkyl substance or class of perfluoroalkyl or polyfluoroalkyl substances is listed on the list of contaminants for consideration of regulation under paragraph (1)(B)(i); and

(II) the date on which—

(aa) the Administrator has received the results of monitoring under section 1445(a)(2)(B) for the perfluoroalkyl or polyfluoroalkyl substance or class of perfluoroalkyl or polyfluoroalkyl substances; or

(bb) the Administrator has received reliable water data or water monitoring surveys for the perfluoroalkyl or polyfluoroalkyl substance or class of perfluoroalkyl or polyfluoroalkyl substances from a Federal or State agency that the Administrator determines to be of a quality sufficient to make a determination under paragraph (1)(A).

(ii) PRIMARY DRINKING WATER REGULATIONS.—

(I) IN GENERAL.—For each perfluoroalkyl or polyfluoroalkyl substance or class of perfluoroalkyl or polyfluoroalkyl substances that the Administrator determines to regulate under clause (i), the Administrator—

(aa) not later than 18 months after the date on which the Administrator makes the determination, shall propose a national primary drinking water regulation for the perfluoroalkyl or polyfluoroalkyl substance or class of perfluoroalkyl or polyfluoroalkyl substances; and

(bb) may publish the proposed national primary drinking water regulation described in item (aa) concurrently with the publication of the determination to regulate the perfluoroalkyl or polyfluoroalkyl substance or class of perfluoroalkyl or polyfluoroalkyl substances.

(II) DEADLINE.—

(aa) IN GENERAL.—Not later than 1 year after the date on which the Administrator publishes a proposed national primary drinking water regulation under clause (i)(I) and subject to item (bb), the Administrator shall take final action on the proposed national primary drinking water regulation.

(bb) EXTENSION.—The Administrator, on publication of notice in the Federal Register,

may extend the deadline under item (aa) by not more than 6 months.

(G) HEALTH ADVISORY.—

(i) IN GENERAL.—Subject to clause (ii), the Administrator shall publish a health advisory under paragraph (1)(F) for a perfluoroalkyl or polyfluoroalkyl substance or class of perfluoroalkyl or polyfluoroalkyl substances not subject to a national primary drinking water regulation not later than 1 year after the later of—

(I) the date on which the Administrator finalizes a toxicity value for the perfluoroalkyl or polyfluoroalkyl substance or class of perfluoroalkyl or polyfluoroalkyl substances; and

(II) the date on which the Administrator validates an effective quality control and testing procedure for the perfluoroalkyl or polyfluoroalkyl substance or class of perfluoroalkyl or polyfluoroalkyl substances.

(ii) WAIVER.—The Administrator may waive the requirements of clause (i) with respect to a perfluoroalkyl or polyfluoroalkyl substance or class of perfluoroalkyl and polyfluoroalkyl substances if the Administrator determines that there is a substantial likelihood that the perfluoroalkyl or polyfluoroalkyl substance or class of perfluoroalkyl or polyfluoroalkyl substances will not occur in drinking water with sufficient frequency to justify the publication of a health advisory, and publishes such determination, including the information and analysis used, and basis for, such determination, in the Federal Register.

\* \* \* \* \*

SEC. 1433. COMMUNITY WATER SYSTEM RISK AND RESILIENCE.

(a) RISK AND RESILIENCE ASSESSMENTS.— \* \* \*

\* \* \* \* \*

(g) TECHNICAL ASSISTANCE AND GRANTS.—

(1) IN GENERAL.—The Administrator shall establish and implement a program, to be known as the Drinking Water Infrastructure Risk and Resilience Program, under which the Administrator may award grants in each of fiscal years 2020 and 2021 to owners or operators of community water systems [for the purpose of increasing] for the purpose of—

(A) increasing the resilience of such community water systems[.] ;or

(B) increasing the capacity of the community water system to adapt to an increase in population served by the community water system that is primarily caused by a natural hazard or a malevolent act in another community or State.

\* \* \* \* \*

(5) GRANTS FOR [small] SMALL, RURAL, AND DISADVANTAGED systems.—For each fiscal year, the Administrator may use not more than \$10,000,000 from the funds made available to carry out this subsection to make grants to community water sys-



tems serving [a population of less than 3,300 persons] *disadvantaged communities or populations of fewer than 10,000 persons*, or nonprofit organizations receiving assistance under section 1442(e), for activities and projects undertaken in accordance with the guidance provided to such systems under subsection (e) [of this section].

(6) AUTHORIZATION OF APPROPRIATIONS.—To carry out this subsection, there are authorized to be appropriated \$25,000,000 for each of fiscal years [2020 and 2021] *fiscal years 2021 and 2022*.

(h) DEFINITIONS.—In this section—

(1) the term “resilience” means the ability of a community water system or an asset of a community water system to adapt to or withstand the effects of a malevolent act or natural hazard without interruption to the asset’s or system’s function, or if the function is interrupted, to rapidly return to a normal operating condition; and

(2) the term “natural hazard” means a natural event that threatens the functioning of a community water system, including an earthquake, tornado, flood, hurricane, wildfire, and hydrologic changes.

PART E—GENERAL PROVISIONS

ASSURANCE OF AVAILABILITY OF ADEQUATE SUPPLIES OF CHEMICALS NECESSARY FOR TREATMENT OF WATER

SEC. 1441. (a) \* \* \*

\* \* \* \* \*

RESEARCH, TECHNICAL ASSISTANCE, INFORMATION, TRAINING OF PERSONNEL

SEC. 1442. (a)(1) The Administrator may conduct research, studies, and demonstrations relating to the causes, diagnosis, treatment, control, and prevention of physical and mental diseases and other impairments of man resulting directly or indirectly from contaminants in water, or to the provision of a dependably safe supply of drinking water, including—

(A) \* \* \*

\* \* \* \* \*

(b) The Administrator is authorized to provide technical assistance and to make grants to States, or publicly owned water systems to assist in responding to and alleviating any emergency situation affecting public water systems (including sources of water for such systems) which the Administrator determines to present substantial danger to the public health , *including a threat to public health resulting from contaminants, such as, but not limited to, heightened exposure to lead in drinking water*. Grants provided under this subsection shall be used only to support those actions which (i) are necessary for preventing, limiting or mitigating danger to the public health in such emergency situation and (ii) would not, in the judgment of the Administrator, be taken without such emergency assistance. The Administrator may carry out the program authorized under this subparagraph as part of, and in accord-

ance with the terms and conditions of, any other program of assistance for environmental emergencies which the Administrator is authorized to carry out under any other provision of law. No limitation on appropriations for any such other program shall apply to amounts appropriated under this subparagraph.

\* \* \* \* \*

[(d) There are authorized to be appropriated to carry out subsection (b) not more than \$35,000,000 for the fiscal year 2002 and such sums as may be necessary for each fiscal year thereafter.]

(d) AUTHORIZATION OF APPROPRIATIONS.—*There is authorized to be appropriated to carry out subsection (b) \$35,000,000 for each of fiscal years 2021 through 2024.*

(e) TECHNICAL ASSISTANCE TO SMALL PUBLIC WATER SYSTEMS.—

(1) \* \* \*

\* \* \* \* \*

(5) There are authorized to be appropriated to the Administrator to be used for such technical assistance \$15,000,000 for each of the fiscal years [2015 through 2020] 2021 through 2024.

\* \* \* \* \*

(f) STATE-BASED NONPROFIT ORGANIZATIONS.—*The Administrator may provide technical assistance consistent with the authority provided under subsection (e) to State-based nonprofit organizations that are governed by community water systems.*

[(f)] (g) TECHNICAL ASSISTANCE FOR INNOVATIVE WATER TECHNOLOGIES.—

(1) The Administrator may provide technical assistance to public water systems to facilitate use of innovative water technologies.

(2) There are authorized to be appropriated to the Administrator for use in providing technical assistance under paragraph (1) \$10,000,000 for each of fiscal years 2017 through 2021.

\* \* \* \* \*

STATE REVOLVING LOAN FUNDS

SEC. 1452. (a) GENERAL AUTHORITY.—

(1) GRANTS TO STATES TO ESTABLISH STATE LOAN FUNDS.—

\* \* \*

\* \* \* \* \*

(2) USE OF FUNDS.—

(A) IN GENERAL.— \* \* \*

\* \* \* \* \*

(G) EMERGING CONTAMINANTS.—

[(i) IN GENERAL.—Notwithstanding any other provision of law and subject to clause (ii),]

(i) DRINKING WATER.—

(I) IN GENERAL.—*Notwithstanding any other provision of law and subject to subclause (II), amounts deposited under subsection (t) in a State loan fund established under this section may [only] be used to provide grants for the purpose*

of addressing emerging contaminants, with a focus on perfluoroalkyl and polyfluoroalkyl substances.

[(ii)]

(II) REQUIREMENTS.—

[(I)]

(aa) SMALL AND DISADVANTAGED COMMUNITIES.—Not less than 25 percent of the [amounts described in clause (i)] amounts made available to carry out this clause shall be used to provide grants to—

[(aa)]

(AA) disadvantaged communities (as defined in subsection (d)(3)); or

[(bb)]

(BB) public water systems serving fewer than 25,000 persons.

[(II)]

(bb) PRIORITIES.—In selecting the recipient of a grant using [amounts described in clause (i)] amounts made available to carry out this clause, a State shall use the priorities described in subsection (b)(3)(A).

(ii) REMEDIATION OF CONTAMINATION OF GROUND-WATER.—

(I) DEFINITION OF ELIGIBLE SITE.—*In this clause, the term ‘eligible site’ means a site at which an emerging contaminant is present in, or has the potential to enter, a public water system or an underground source of drinking water.*

(II) GRANTS.—*Notwithstanding any other provision of law and subject to subclause (III), amounts deposited under subsection (t) in a State loan fund established under this section may only be used to provide grants to address contamination of groundwater at an eligible site, with a focus on perfluoroalkyl and polyfluoroalkyl substances.*

(III) REQUIREMENTS.—

(aa) PRIORITIES.—*In selecting the recipient of a grant using amounts made available to carry out this clause, a State shall use the priorities described in subsection (b)(3)(A).*

(bb) CLEANUP STANDARDS.—*Any detection, treatment, and remediation of groundwater carried out using amounts made available to carry out this clause shall be carried out in accordance with applicable State toxicity values, standards, and regulations of the State in which the detection, treatment, or remediation is being carried out.*

(iii) NO INCREASED BONDING AUTHORITY.— \* \* \*

\* \* \* \* \*

(H) REQUIRED SUBSIDIES FOR PUBLIC WATER SYSTEMS.—

(i) IN GENERAL.—*Notwithstanding any other provision of this paragraph and to the extent that there are sufficient applications from public water systems, a*

State shall use not less than 14 percent of a capitalization grant to the State under this section to provide the additional subsidies described in clause (ii) to public water systems if the additional subsidies described in that clause are used—

(I) as initial financing for the public water system; or

(II) to buy, refinance, or restructure the debt obligations of the public water system, if—

(aa) the debt obligation was incurred on or after the date of enactment of this subparagraph; or

(bb) for a debt obligation that was incurred before the date of enactment of this subparagraph—

(AA) the State, with the concurrence of the Administrator, determines that the additional subsidies described in clause (ii) would help the public water system address a threat to public health from heightened exposure to contaminants (including lead) in drinking water; or

(BB) before the date of enactment of this subparagraph, an emergency has been declared by the President under section 501 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5191) or a State emergency declaration has been issued due to a threat to public health, including a threat from heightened exposure to lead, in the municipal drinking water supply of the public water system.

(ii) ADDITIONAL SUBSIDIES DESCRIBED.—The additional subsidies referred to in clause (i) are—

(I) forgiveness of principal of loans owed to the State loan fund of the State;

(II) negative interest loans;

(III) grants; or

(IV) a combination of the subsidies described in subclauses (I) through (III).

\* \* \* \* \*

(4) AMERICAN IRON AND STEEL PRODUCTS.—

(A) IN GENERAL.—[During fiscal years 2019 through 2023, funds] Funds made available from a State loan fund established pursuant to this section may not be used for a project for the construction, alteration, or repair of a public water system unless all of the iron and steel products used in the project are produced in the United States.

\* \* \* \* \*

(q) SMALL SYSTEM TECHNICAL ASSISTANCE.—The Administrator may reserve up to 2 percent of the total funds made available to carry out this section for each of fiscal years [2016 through 2021] 2021 through 2024 to carry out the provisions of section 1442(e)

(relating to technical assistance for small systems), except that the total amount of funds made available for such purpose in any fiscal year through appropriations (as authorized by section 1442(e)) and reservations made pursuant to this subsection shall not exceed the amount authorized by section 1442(e).

\* \* \* \* \*  
(t) EMERGING CONTAMINANTS.—  
(1) IN GENERAL.— \* \* \*

\* \* \* \* \*  
(2) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection ~~[\$100,000,000 for each of fiscal years 2020]~~ *\$300,000,000 for each of fiscal years 2021 through 2024*, to remain available until expended.

SOURCE WATER PETITION PROGRAM

SEC. 1454. (a) PETITION PROGRAM.—  
(1) IN GENERAL.—

(A) ESTABLISHMENT.—A State may establish a program under which an owner or operator of a community water system in the State, or a municipal or local government or ~~[political subdivision of a State,]~~ *political subdivision of a State (including a county that is designated by the State to act on behalf of an unincorporated area within that county, with the agreement of that unincorporated area)*, may submit a source water quality protection partnership petition to the State requesting that the State assist in the local development of a voluntary, incentive-based partnership, among the owner, operator, or government and other persons likely to be affected by the recommendations of the partnership, to—

\* \* \* \* \*  
(4) CONTENTS.— \* \* \*

\* \* \* \* \*  
(D) specify the efforts made to establish the voluntary local partnership and obtain the participation of—  
(i) the municipal or local government or other political subdivision of the State *(including a county that is designated by the State to act on behalf of an unincorporated area within that county)* with jurisdiction over the source water area delineated under section 1453; and

(5) SAVINGS PROVISION.—*Unless otherwise provided within the agreement, an agreement between an unincorporated area and a county for the county to submit a petition under paragraph (1)(A) on behalf of the unincorporated area shall not authorize the county to act on behalf of the unincorporated area in any matter not within a program under this section.*

\* \* \* \* \*  
(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section \$5,000,000 for each of the fiscal years 2020 through ~~[2021]~~ *2024*. Each State with a plan for

a program approved under subsection (b) shall receive an equitable portion of the funds available for any fiscal year.

\* \* \* \* \*

**SEC. 1459A. ASSISTANCE FOR SMALL AND DISADVANTAGED COMMUNITIES.**

(a) DEFINITION OF UNDERSERVED COMMUNITY.—In this section:

(1) IN GENERAL.— \* \* \*

\* \* \* \* \*

(b) ESTABLISHMENT.—

(1) IN GENERAL.— \* \* \*

\* \* \* \* \*

(2) INCLUSIONS.—Projects and activities under paragraph (1) include—

(A) investments necessary for the public water system to comply with the requirements of this title;

(B) assistance that directly and primarily benefits the disadvantaged community on a per-household basis; **and**

(C) programs to provide household water quality testing, including testing for unregulated contaminants~~...~~; and

*(D) the purchase of point-of-entry or point-of-use filters that are independently certified using science-based test methods for the removal of contaminants of concern;*

*(E) investments necessary for providing accurate and current information about—*

*(i) the need for filtration, filter safety, and proper maintenance practices; and*

*(ii) the options for replacing lead service lines (as defined section 1459B(a)) and removing other sources of lead in water; and*

*(F) entering into contracts with nonprofit organizations that have water system technical expertise to assist underserved communities.*

(3) CONTRACTING PARTIES.—A contract described in paragraph (2)(F) may be between a nonprofit organization described in that paragraph and—

(A) an eligible entity; or

(B) the State of an eligible entity, on behalf of that eligible entity.

(c) ELIGIBLE ENTITIES.—**[An eligible entity]** *Except for purposes of subsections (j) and (m), an eligible entity under this section—*

\* \* \* \* \*

(g) COST SHARING.—Before providing a grant to an eligible entity under this section, the Administrator shall enter into a binding agreement with the eligible entity to require the eligible entity—

(1) **[to pay not less than 45 percent]** *except as provided in subsection (l)(5) and subject to subsection (h), to pay not less than 10 percent of the total costs of the project or activity, which may include services, materials, supplies, or other in-kind contributions;*

\* \* \* \* \*

**[(h) WAIVER.—The Administrator may waive, in whole or in part, the requirement under subsection (g)(1) if the Administrator deter-**

mines that an eligible entity is unable to pay, or would experience significant financial hardship if required to pay, the non-Federal share.】

(h) WAIVER.—*The Administrator may waive the requirement under subsection (g)(1).*

\* \* \* \* \*

【(k) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out subsections (a) through (j) of this section, \$60,000,000 for each of fiscal years 2017 through 2021.】

(k) AUTHORIZATION OF APPROPRIATIONS.—*There are authorized to be appropriated to carry out subsections (a) through (j)—*

(1) *\$60,000,000 for fiscal year 2021; and*

(2) *\$100,000,000 for each of fiscal years 2022 through 2024.*

(l) DRINKING WATER INFRASTRUCTURE RESILIENCE AND SUSTAINABILITY.—

(1) RESILIENCE AND NATURAL HAZARD.—The terms “resilience” and “natural hazard” have the meaning given such terms in section 1433(h).

(2) IN GENERAL.—【The Administrator may】 *The Administrator shall establish and carry out a program, to be known as the Drinking Water System Infrastructure Resilience and Sustainability Program, under which the Administrator, subject to the availability of appropriations for such purpose, shall award grants in each of fiscal years 【2019 and 2020】 fiscal years 2021 through 2024 to eligible entities for the purpose of increasing resilience to natural hazards.*

\* \* \* \* \*

(4) APPLICATION.—To seek a grant under this subsection, the eligible entity shall submit to the Administrator an application that—

(A) \* \* \*

\* \* \* \* \*

(5) FEDERAL SHARE FOR UNDERSERVED COMMUNITIES.—

(A) IN GENERAL.—*Subject to subparagraph (B), with respect to a program or project that serves an underserved community and is carried out using a grant under this subsection, the Federal share of the cost of the program or project shall be 90 percent.*

(B) WAIVER.—*The Administrator may increase the Federal share under subparagraph (A)(ii) to 100 percent.*

【(5)】 (6) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection 【\$4,000,000 for each of fiscal years 2019 and 2020】 *\$10,000,000 for each of fiscal years 2021 through 2024.*

(m) CONNECTION TO PUBLIC WATER SYSTEMS.—

(1) DEFINITIONS.—*In this subsection:*

(A) ELIGIBLE ENTITY.—*The term ‘eligible entity’ means—*

(i) *an owner or operator of a public water system that assists or is seeking to assist eligible individuals with connecting the household of the eligible individual to the public water system; or*

(ii) *a nonprofit entity that assists or is seeking to assist eligible individuals with the costs associated with*

connecting the household of the eligible individual to a public water system.

(B) ELIGIBLE INDIVIDUAL.—*The term ‘eligible individual’ has the meaning given the term in section 603(j) of the Federal Water Pollution Control Act (33 U.S.C. 1383(j)).*

(C) PROGRAM.—*The term ‘program’ means the competitive grant program established under paragraph (2).*

(2) ESTABLISHMENT.—*Subject to the availability of appropriations, the Administrator shall establish a competitive grant program under which the Administrator awards grants to eligible entities to provide funds to assist eligible individuals in covering the costs incurred by the eligible individual in connecting the household of the eligible individual to a public water system.*

(3) APPLICATION.—*An eligible entity seeking a grant under the program shall submit to the Administrator an application at such time, in such manner, and containing such information as the Administrator may require.*

(4) VOLUNTARY CONNECTION.—*Before providing funds to an eligible individual for the costs described in paragraph (2), an eligible entity shall ensure that—*

(A) *the eligible individual is voluntarily seeking connection to the public water system;*

(B) *if the eligible entity is not the owner or operator of the public water system to which the eligible individual seeks to connect, the public water system to which the eligible individual seeks to connect has agreed to the connection; and*

(C) *the connection of the household of the eligible individual to the public water system meets all applicable local and State regulations, requirements, and codes.*

(5) AUTHORIZATION OF APPROPRIATIONS.—*There is authorized to be appropriated to carry out the program \$20,000,000 for each of fiscal years 2021 and 2022.*

(n) STATE COMPETITIVE GRANTS FOR UNDERSERVED COMMUNITIES.—

(1) IN GENERAL.—*In addition to amounts authorized to be appropriated under subsection (k), there is authorized to be appropriated to carry out subsections (a) through (j) \$50,000,000 for each of fiscal years 2021 through 2024 in accordance with paragraph (2).*

(2) COMPETITIVE GRANTS.—

(A) IN GENERAL.—*Notwithstanding any other provision of this section, the Administrator shall distribute amounts made available under paragraph (1) to States through a competitive grant program.*

(B) APPLICATIONS.—*To seek a grant under the competitive grant program under subparagraph (A), a State shall submit to the Administrator an application at such time, in such manner, and containing such information as the Administrator may require.*

(C) PRIORITIZATION.—*In selecting recipients of grants under the competitive grant program under subparagraph (A), the Administrator shall give priority to States with a*



*high proportion of underserved communities that meet the condition described in subsection (a)(2)(A).*

(3) SAVINGS PROVISION.—*Nothing in this paragraph affects the distribution of amounts made available under subsection (k), including any methods used by the Administrator for distribution of amounts made available under that subsection as in effect on the day before the date of enactment of this subsection.*

**SEC. 1459B. REDUCING LEAD IN DRINKING WATER.**

(a) DEFINITIONS.— \* \* \*

\* \* \* \* \*

(c) LIMITATION ON USE OF FUNDS.—*Not more than 4 percent of funds made available for grants under this section may be used to pay the administrative costs of the Administrator.*

(d) LEAD MAPPING UTILIZATION GRANT PILOT PROGRAM.—

(1) DEFINITIONS.—*In this subsection:*

(A) ELIGIBLE ENTITY.—*The term ‘eligible entity’ means a municipality that is served by a community water system or a nontransient noncommunity water system in which not less than 30 percent of the service lines are known, or likely to contain, lead service lines.*

(B) PILOT PROGRAM.—*The term ‘pilot program’ means the pilot program established under paragraph (2).*

(2) ESTABLISHMENT.—*The Administrator shall establish a pilot program under which the Administrator shall provide grants to eligible entities to carry out lead reduction projects that are demonstrated to exist based on existing lead mapping of those eligible entities.*

(3) SELECTION.—

(A) APPLICATION.—*To be eligible to receive a grant under the pilot program, an eligible entity shall submit to the Administrator an application at such time, in such manner, and containing such information as the Administrator may require.*

(B) PRIORITIZATION.—*In selecting recipients under the pilot program, the Administrator shall give priority to an eligible entity that meets the affordability criteria established by the applicable State.*

(4) REPORT.—*Not later 2 years after the Administrator first awards a grant under the pilot program, the Administrator shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Energy and Commerce of the House of Representatives a report describing—*

*(A) the recipients of grants under the pilot program;*

*(B) the existing lead mapping that was available to recipients of grants under the pilot program; and*

*(C) how useful and accurate the lead mapping described in subparagraph (B) was in locating lead contaminants of the eligible entity.*

(5) AUTHORIZATION OF APPROPRIATIONS.—*There is authorized to be appropriated to carry out the pilot program \$10,000,000, to remain available until expended.*

[(d)] (e) AUTHORIZATION OF APPROPRIATIONS.—*There is authorized to be appropriated to carry out this section (except for sub-*

section (d)) \$60,000,000 for each of fiscal years 2017 through [2021] 2022.

[(e)] (f) SAVINGS CLAUSE.—Nothing in this section affects whether a public water system is responsible for the replacement of a lead service line that is—

- (1) subject to the control of the public water system; and
- (2) located on private property.

\* \* \* \* \*

**SEC. 1459D. REVIEW OF TECHNOLOGIES.**

(a) REVIEW.— \* \* \*

\* \* \* \* \*

**SEC. 1459E. OPERATIONAL SUSTAINABILITY OF SMALL PUBLIC WATER SYSTEMS.**

(a) DEFINITIONS.—*In this section:*

(1) ELIGIBLE ENTITY.—*The term ‘eligible entity’ means—*

- (A) *a unit of local government;*
- (B) *a public corporation established by a unit of local government to provide water service;*
- (C) *a nonprofit corporation, public trust, or cooperative association that owns or operates a public water system;*
- and
- (D) *an Indian Tribe that owns or operates a public water system.*

(2) OPERATIONAL SUSTAINABILITY.—*The term ‘operational sustainability’ means the ability to improve the operation of a small system through the identification and prevention of potable water loss due to leaks, breaks, and other metering or infrastructure failures.*

(3) PROGRAM.—*The term ‘program’ means the grant program established under subsection (b).*

(4) SMALL SYSTEM.—*The term ‘small system’ means a public water system that—*

- (A) *serves fewer than 10,000 people; and*
- (B) *is owned or operated by—*
  - (i) *a unit of local government;*
  - (ii) *a public corporation;*
  - (iii) *a nonprofit corporation;*
  - (iv) *a public trust;*
  - (v) *a cooperative association; or*
  - (vi) *an Indian Tribe.*

(b) ESTABLISHMENT.—*Subject to the availability of appropriations, the Administrator shall establish a program to award grants to eligible entities for the purpose of improving the operational sustainability of 1 or more small systems.*

(c) APPLICATIONS.—*To be eligible to receive a grant under the program, an eligible entity shall submit to the Administrator an application at such time, in such manner, and containing such information as the Administrator may require, including—*

- (1) *a proposal of the project to be carried out using grant funds under the program;*
- (2) *documentation prepared by the eligible entity describing the deficiencies or suspected deficiencies in operational sustain-*

ability of 1 or more small systems that are to be addressed through the proposed project;

(3) a description of how the proposed project will improve the operational sustainability of 1 or more small systems;

(4) a description of how the improvements described in paragraph (3) will be maintained beyond the life of the proposed project, including a plan to maintain and update any asset data collected as a result of the proposed project;

(5)(A) if the eligible entity is located in a State that has established a State drinking water treatment revolving loan fund under section 1452, a copy of a written agreement between the eligible entity and the State in which the eligible entity agrees to provide a copy of any data collected under the proposed project to the State agency administering the State drinking water treatment revolving loan fund (or a designee); or

(B) if the eligible entity is located in an area other than a State that has established a State drinking water treatment revolving loan fund under section 1452, a copy of a written agreement between the eligible entity and the Administrator in which the eligible entity agrees to provide a copy of any data collected under the proposed project to the Administrator (or a designee); and

(6) any additional information the Administrator may require.

(d) USE OF FUNDS.—An eligible entity that receives a grant under the program shall use the grant funds to carry out projects that improve the operational sustainability of 1 or more small systems through—

(1) the development of a detailed asset inventory, which may include drinking water sources, wells, storage, valves, treatment systems, distribution lines, hydrants, pumps, controls, and other essential infrastructure;

(2) the development of an infrastructure asset map, including a map that uses technology such as—

(A) geographic information system software; and

(B) global positioning system software;

(3) the deployment of leak detection technology;

(4) the deployment of metering technology;

(5) training in asset management strategies, techniques, and technologies appropriate staff employed by—

(A) the eligible entity; or

(B) the small systems for which the grant was received;

and

(6) the development or deployment of other strategies, techniques, or technologies that the Administrator may determine to be appropriate under the program.

(e) COST SHARE.—

(1) IN GENERAL.—Subject to paragraph (2), the Federal share of the cost of a project carried out using a grant under the program shall be 90 percent of the total cost of the project.

(2) WAIVER.—The Administrator may increase the Federal share under paragraph (1) to 100 percent.

(f) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section \$10,000,000 for each of fiscal years 2021 through 2024.

SEC. 1459F. MIDSIZE DRINKING WATER SYSTEM INFRASTRUCTURE RESILIENCE AND SUSTAINABILITY PROGRAM.

(a) DEFINITIONS.—*In this section:*

(1) ELIGIBLE ENTITY.—*The term ‘eligible entity’ means a public water system that serves a community with a population of—*

- (A) *greater than 10,000; and*
- (B) *fewer than 100,000.*

(2) NATURAL HAZARD; RESILIENCE.—*The terms ‘resilience’ and ‘natural hazard’ have the meanings given those terms in section 1433(h).*

(3) RESILIENCE AND SUSTAINABILITY PROGRAM.—*The term ‘resilience and sustainability program’ means the Midsize Drinking Water System Infrastructure Resilience and Sustainability Program established under subsection (b).*

(b) ESTABLISHMENT.—*The Administrator shall establish and carry out a program, to be known as the ‘Midsize Drinking Water System Infrastructure Resilience and Sustainability Program’, under which the Administrator, subject to the availability of appropriations for the resilience and sustainability program, shall award grants to eligible entities for the purpose of increasing resilience to natural hazards.*

(c) USE OF FUNDS.—*An eligible entity may only use grant funds received under the resilience and sustainability program to assist in the planning, design, construction, implementation, operation, or maintenance of a program or project that increases resilience to natural hazards through—*

(1) *the conservation of water or the enhancement of water-use efficiency;*

(2) *the modification or relocation of existing drinking water system infrastructure made, or that is at risk of being, significantly impaired by natural hazards, including risks to drinking water from flooding;*

(3) *the design or construction of new or modified desalination facilities to serve existing communities;*

(4) *the enhancement of water supply through the use of watershed management and source water protection;*

(5) *the enhancement of energy efficiency or the use and generation of renewable energy in the conveyance or treatment of drinking water; or*

(6) *the development and implementation of measures to increase the resilience of the eligible entity to natural hazards.*

(d) APPLICATION.—*To seek a grant under the resilience and sustainability program, an eligible entity shall submit to the Administrator an application at such time, in such manner, and containing such information as the Administrator may require, including—*

(1) *a proposal of the program or project to be planned, designed, constructed, implemented, operated, or maintained by the eligible entity;*

(2) *an identification of the natural hazard risk to be addressed by the proposed program or project;*

(3) *documentation prepared by a Federal, State, regional, or local government agency of the natural hazard risk to the area where the proposed program or project is to be located;*

- (4) a description of any recent natural hazard events that have affected the community water system of the eligible entity;
- (5) a description of how the proposed program or project would improve the performance of the community water system of the eligible entity under the anticipated natural hazards; and
- (6) an explanation of how the proposed program or project is expected to enhance the resilience of the community water system of the eligible entity to the anticipated natural hazards.

(e) AUTHORIZATION OF APPROPRIATIONS.—*There is authorized to be appropriated to carry out the resilience and sustainability program \$10,000,000 for each of fiscal years 2021 through 2024.*

SEC. 1459G. NEEDS ASSESSMENT FOR NATIONWIDE RURAL AND URBAN LOW-INCOME COMMUNITY WATER ASSISTANCE.

(a) DEFINITION OF LOW-INCOME HOUSEHOLD.—*In this section, the term ‘low-income household’ means a household that has an income that, as determined by the State in which the household is located, does not exceed the greater of—*

- (1) an amount equal to 150 percent of the poverty level of that State; and
- (2) an amount equal to 60 percent of the State median income for that State.

(b) STUDY; REPORT.—

(1) IN GENERAL.—*Subject to the availability of appropriations, not later than 2 years after the date of enactment of this section, the Administrator shall conduct, and submit to Congress a report describing the results of, a study regarding the prevalence throughout the United States of low-income households, including low-income renters, that do not have access to affordable public drinking water services to meet household needs.*

(2) INCLUSIONS.—*The report under paragraph (1) shall include—*

- (A) recommendations of the Administrator regarding the best methods to increase access to affordable and reliable drinking water services;
- (B) a description of the cost of each method described in subparagraph (A); and
- (C) with respect to the development of the report, a consultation with all relevant stakeholders.

(3) AGREEMENTS.—*The Administrator may enter into an agreement with another Federal agency to carry out the study under paragraph (1).*

(c) AUTHORIZATION OF APPROPRIATIONS.—*There is authorized to be appropriated to carry out this section \$5,000,000, to remain available until expended.*

\* \* \* \* \*

SEC. 1464. (a) \* \* \*

\* \* \* \* \*

(b) GUIDANCE DOCUMENT AND TESTING PROTOCOL.—*The Administrator shall publish a guidance document and a testing protocol to assist public water systems and schools in determining the source and degree of lead contamination in school drinking water supplies and in remedying such contamination. The guidance document shall include guidelines for sample preservation. The guid-*

ance document shall also include guidance to assist States, schools, *public water systems*, and the general public in ascertaining the levels of lead contamination in drinking water coolers and in taking appropriate action to reduce or eliminate such contamination. The guidance document shall contain a testing protocol for the identification of drinking water coolers which contribute to lead contamination in drinking water. Such document and protocol may be revised, republished and redistributed as the Administrator deems necessary. The Administrator shall distribute the guidance document and testing protocol to the States **within 100 days after the enactment of this section** *not later than 100 days after the date of enactment of the Drinking Water Infrastructure Act of 2020.*

\* \* \* \* \*

(d) VOLUNTARY SCHOOL AND CHILD CARE PROGRAM LEAD TESTING GRANT PROGRAM.—

(1) DEFINITIONS.— \* \* \*

\* \* \* \* \*

(2) ESTABLISHMENT.—

(A) IN GENERAL.—Not later than 180 days after the date of enactment of the Water and Waste Act of 2016, the Administrator shall establish a voluntary school and child care program lead testing grant program to make **grants available to States** *grants available to—*

(i) *States to assist local educational agencies, public water systems that serve schools and child care programs under the jurisdiction of those local educational agencies, and qualified nonprofit organizations in voluntary testing for lead contamination in drinking water at schools and child care programs under the jurisdiction of the local educational agencies***;** *and*

(ii) *tribal consortia to assist tribal education agencies (as defined in section 3 of the National Environmental Education Act (20 U.S.C. 5502) in voluntary testing for lead contamination in drinking water at schools and child care programs under the jurisdiction of the tribal education agency.*

(B) DIRECT GRANTS TO LOCAL EDUCATIONAL AGENCIES.—The Administrator may make a grant for the voluntary testing described in subparagraph (A) directly available to—

(i) any local educational agency described in clause (i) or (iii) of paragraph (1)(B) located in a State that does not participate in the voluntary grant program established under subparagraph (A); **or**

(ii) any local educational agency described in clause (ii) of paragraph (1)(B)**;** *and*

(iii) *any public water system that is located in a State that does not participate in the voluntary grant program established under subparagraph (A) that—*

(I) *assists schools or child care programs in lead testing; or*

(II) *provides technical assistance to schools or child care programs in carrying out lead testing; or*

(iv) a qualified nonprofit organization, as determined by the Administrator.

(3) APPLICATION.—To be eligible to receive a grant under this subsection, a [State or local educational agency] *State, local educational agency, public water system, tribal consortium, or qualified nonprofit organization* shall submit to the Administrator an application at such time, in such manner, and containing such information as the Administrator may require.

(4) PRIORITY.—In making grants under this subsection, the Administrator shall give priority to [States and local educational agencies] *States, local educational agencies, public water systems, tribal consortia, and qualified nonprofit organizations* that will assist in voluntary testing for lead contamination in drinking water at schools and child care programs that are in low-income areas.

(5) LIMITATION ON USE OF FUNDS.—Not more than 4 percent of grant funds accepted by a [State or local educational agency] *State, local educational agency, public water system, tribal consortium, or qualified nonprofit organization* for a fiscal year under this subsection shall be used to pay the administrative costs of carrying out this subsection.

(6) GUIDANCE; PUBLIC AVAILABILITY.—As a condition of receiving a grant under this subsection, the recipient [State or local educational agency] *State, local educational agency, public water system, tribal consortium, or qualified nonprofit organization* shall ensure that each local educational agency, *public water system, tribal consortium, or qualified nonprofit organization* to which grant funds are distributed shall—

(A) expend grant funds in accordance with—

(i) the guidance of the Environmental Protection Agency entitled “3Ts for Reducing Lead in Drinking Water in Schools: Revised Technical Guidance” and dated October 2006 (or any successor guidance); or

(ii) applicable *State or tribal* regulations or guidance regarding reducing lead in drinking water in schools and child care programs that are not less stringent than the guidance referred to in clause (i); and

(B)(i) make available, if applicable, in the administrative offices and, to the extent practicable, on the Internet website of the *applicable* local educational agency for inspection by the public (including teachers, other school personnel, and parents) a copy of the results of any voluntary testing for lead contamination in school and child care program drinking water carried out using grant funds under this subsection; and

(ii) notify parent, teacher, and employee organizations of the availability of the results described in clause (i).

(7) MAINTENANCE OF EFFORT.—If resources are available to a [State or local educational agency] *State, local educational agency, public water system, tribal consortium, or qualified nonprofit organization* from any other Federal agency, a State, or a private foundation for testing for lead contamination in drinking water, the [State or local educational agency] *State, local educational agency, public water system, tribal consortium, or qualified nonprofit organization* shall demonstrate

that the funds provided under this subsection will not displace those resources.

(8) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subsection \$20,000,000 for each of fiscal years 2017 through 2019, and \$25,000,000 for each of fiscal years [2020 and 2021] *2021 and 2022*.

**America’s Water Infrastructure Act of 2018**

\* \* \* \* \*

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

(a) [33 U.S.C. 2201 note] SHORT TITLE.—This Act may be cited as “America’s Water Infrastructure Act of 2018”.

(b) TABLE OF CONTENTS.— \* \* \*

\* \* \* \* \*

**TITLE II—DRINKING WATER SYSTEM IMPROVEMENT**

**SEC. 2001. [42 U.S.C. 300j-3c note] INDIAN RESERVATION DRINKING WATER PROGRAM.**

(a) IN GENERAL.—[Subject to the availability of appropriations, the Administrator of the Environmental Protection Agency] *The Administrator of the Environmental Protection Agency (referred to in this section as the ‘Administrator’)* shall carry out a program [to implement—

    (1) 10 eligible projects described in subsection (b) that are within the Upper Missouri River Basin; and

    (2) 10 eligible projects described in subsection (b) that are within the Upper Rio Grande Basin.] *to implement eligible projects described in subsection (b).*

\* \* \* \* \*

[(c) REQUIREMENT.—In carrying out the program under subsection (a)(1), the Administrator of the Environmental Protection Agency shall select not less than one eligible project for a reservation that serves more than one federally recognized Indian Tribe.]

(c) REQUIRED PROJECTS.—

    (1) IN GENERAL.—*If sufficient applications exist, of the funds made available to carry out this section, the Administrator shall use 50 percent to carry out—*

        (A) *10 eligible projects described in subsection (b) that are within the Upper Missouri River Basin;*

        (B) *10 eligible projects described in subsection (b) that are within the Upper Rio Grande Basin; and*

        (C) *10 eligible projects described in subsection (b) that are within the Columbia River Basin.*

    (2) REQUIREMENT.—*In carrying out paragraph (1)(A), the Administrator shall select not fewer than 2 eligible projects for a reservation that serves more than 1 federally recognized Indian Tribe.*

(d) FEDERAL SHARE.—*The Federal share of the cost of a project carried out under this section shall be 100 percent.*



[(d)] (e) AUTHORIZATION OF APPROPRIATIONS.—[There is] *There are* authorized to be appropriated to carry out the program under [subsection (a) \$20,000,000] *subsection (a)*—

(1) *\$20,000,000* for each of fiscal years 2019 through [2022.] 2020; *and*

(2) *\$50,000,000* for each of fiscal years 2021 through 2024.

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