

Calendar No. 1092

110TH CONGRESS
2D SESSION**S. 3617****[Report No. 110–509]**

To amend the Federal Water Pollution Control Act and the Safe Drinking Water Act to improve water and wastewater infrastructure in the United States.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 26 (legislative day, SEPTEMBER 17), 2008

Mrs. BOXER, from the Committee on Environment and Public Works reported the following original bill; which was read twice and placed on the calendar

A BILL

To amend the Federal Water Pollution Control Act and the Safe Drinking Water Act to improve water and wastewater infrastructure in the United States.

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

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

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Water Infrastructure Financing Act”.

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

Sec. 1. Short title; table of contents.

TITLE I—WATER POLLUTION INFRASTRUCTURE

- Sec. 101. Technical assistance for rural small treatment works and medium treatment works.
- Sec. 102. Projects eligible for assistance.
- Sec. 103. Affordability.
- Sec. 104. Water pollution control revolving loan funds.
- Sec. 105. Transferability of funds.
- Sec. 106. Noncompliance.
- Sec. 107. Negotiation of contracts.
- Sec. 108. Allotment of funds.
- Sec. 109. Authorization of appropriations.
- Sec. 110. Sewer overflow control grants.
- Sec. 111. Capitalization grant agreements.
- Sec. 112. Critical water infrastructure projects.

TITLE II—SAFE DRINKING WATER INFRASTRUCTURE

- Sec. 201. Contaminant prevention, detection, and response.
- Sec. 202. Drinking water technical assistance for communities.
- Sec. 203. Preservation of employee labor standards.
- Sec. 204. Preconstruction work.
- Sec. 205. Priority system requirements.
- Sec. 206. Affordability.
- Sec. 207. Safe drinking water revolving loan funds.
- Sec. 208. Other authorized activities.
- Sec. 209. Authorization of appropriations.
- Sec. 210. Negotiation of contracts.
- Sec. 211. Critical drinking water infrastructure projects.
- Sec. 212. District of Columbia lead service line replacement.

TITLE III—MISCELLANEOUS

- Sec. 301. Definitions.
- Sec. 302. Program for water quality enhancement and management.
- Sec. 303. Agricultural pollution control technology grant program.
- Sec. 304. State revolving fund review process.
- Sec. 305. Cost of service study.
- Sec. 306. Water management study.
- Sec. 307. Reduction in authorization of appropriations.

**TITLE I—WATER POLLUTION
INFRASTRUCTURE**

**SEC. 101. TECHNICAL ASSISTANCE FOR RURAL SMALL
TREATMENT WORKS AND MEDIUM TREAT-
MENT WORKS.**

(a) IN GENERAL.—Title II of the Federal Water Pol-
lution Control Act (33 U.S.C. 1281 et seq.) is amended
by adding at the end the following:

**“SEC. 222. TECHNICAL ASSISTANCE FOR RURAL SMALL
TREATMENT WORKS AND MEDIUM TREAT-
MENT WORKS.**

“(a) DEFINITIONS.—In this section:

“(1) DECENTRALIZED WASTEWATER SYSTEM.—

“(A) IN GENERAL.—The term ‘decentral-
ized wastewater system’ means a wastewater
treatment system that is at or near a site at
which wastewater is generated.

“(B) INCLUSIONS.—The term ‘decentral-
ized wastewater system’ includes a system that
provides for—

“(i) nonpotable reuse of treated efflu-
ent; or

“(ii) energy and nutrient recovery
from wastewater constituents.

1 “(2) MEDIUM TREATMENT WORKS.—The term
2 ‘medium treatment works’ means a publicly owned
3 treatment works serving more than 10,000 but fewer
4 than 100,000 individuals.

5 “(3) QUALIFIED NONPROFIT TECHNICAL AS-
6 SISTANCE PROVIDER.—The term ‘qualified nonprofit
7 technical assistance provider’ means a qualified non-
8 profit technical assistance provider of water and
9 wastewater services to small or medium-sized com-
10 munities that provides technical assistance (includ-
11 ing circuit rider, multi-State regional assistance pro-
12 grams, and training and preliminary engineering
13 evaluations) to owners and operators of small treat-
14 ment works or medium treatment works that may
15 include State agencies.

16 “(4) SMALL TREATMENT WORKS.—The term
17 ‘small treatment works’ means a publicly owned
18 treatment works serving not more than 10,000 indi-
19 viduals.

20 “(b) GRANT PROGRAM.—

21 “(1) IN GENERAL.—The Administrator may
22 make grants on a competitive basis to qualified non-
23 profit technical assistance providers that are quali-
24 fied to provide assistance on a broad range of waste-
25 water and stormwater approaches—

1 “(A) to assist owners and operators of
2 small treatment works and medium treatment
3 works to plan, develop, and obtain financing for
4 eligible projects described in section 603(c) or
5 518(c);

6 “(B) to provide financial assistance, in
7 consultation with the State in which the assist-
8 ance is provided, to owners and operators of
9 small treatment works and medium treatment
10 works for predevelopment costs (including costs
11 for planning, design, and associated
12 preconstruction activities, such as activities re-
13 lating directly to the siting of the facility and
14 related elements) associated with stormwater or
15 wastewater infrastructure projects or short-
16 term costs incurred for equipment replacement
17 that is not part of regular operation and main-
18 tenance activities for existing stormwater or
19 wastewater systems, if the amount of assistance
20 for any single project does not exceed \$50,000;

21 “(C) to provide technical assistance and
22 training for owners and operators of small
23 treatment works and medium treatment works
24 to enable those treatment works and systems to

1 protect water quality and achieve and maintain
2 compliance with this Act; and

3 “(D) to disseminate information to owners
4 and operators of small treatment works and
5 medium treatment works, with respect to plan-
6 ning, design, construction, and operation of
7 treatment works, small municipal separate
8 storm sewer systems, and decentralized waste-
9 water treatment systems.

10 “(2) DISTRIBUTION OF GRANT.—In carrying
11 out this subsection, the Administrator shall ensure,
12 to the maximum extent practicable, that technical
13 assistance provided using funds from a grant under
14 paragraph (1) is made available in each State.

15 “(3) CONSULTATION.—As a condition of receiv-
16 ing a grant under this subsection, a qualified non-
17 profit technical assistance provider shall agree to
18 consult with each State in which grant funds are to
19 be expended before the grant funds are expended in
20 the State.

21 “(4) ANNUAL REPORT.—Not later than 60 days
22 after the end of each fiscal year, a qualified non-
23 profit technical assistance provider that receives a
24 grant under this subsection shall submit to the Ad-
25 ministrator a report that—

1 “(A) describes the activities of the quali-
2 fied nonprofit technical assistance provider
3 using grant funds received under this sub-
4 section for the fiscal year; and

5 “(B) specifies—

6 “(i) the number of communities
7 served;

8 “(ii) the sizes of those communities;
9 and

10 “(iii) the type of assistance provided
11 by the qualified nonprofit technical assist-
12 ance provider.

13 “(c) AUTHORIZATION OF APPROPRIATIONS.—There
14 are authorized to be appropriated to carry out this sec-
15 tion—

16 “(1) for grants for small treatment works,
17 \$25,000,000 for each of fiscal years 2009 through
18 2013; and

19 “(2) for grants for medium treatment works,
20 \$15,000,000 for each of fiscal years 2009 through
21 2013.”.

22 (b) GUIDANCE FOR SMALL SYSTEMS.—Section 602
23 of the Federal Water Pollution Control Act (33 U.S.C.
24 1382) is amended by adding at the end the following:

25 “(c) GUIDANCE FOR SMALL SYSTEMS.—

1 “(1) DEFINITION OF SMALL SYSTEM.—In this
2 subsection, the term ‘small system’ means a sys-
3 tem—

4 “(A) for which a municipality or inter-
5 municipal, interstate, or State agency seeks as-
6 sistance under this title; and

7 “(B) that serves a population of not more
8 than 10,000 individuals.

9 “(2) SIMPLIFIED PROCEDURES.—Not later than
10 1 year after the date of enactment of this sub-
11 section, the Administrator shall assist the States in
12 establishing simplified procedures for small systems
13 to obtain assistance under this title.

14 “(3) PUBLICATION OF MANUAL.—Not later
15 than 1 year after the date of enactment of this sub-
16 section, after providing notice and opportunity for
17 public comment, the Administrator shall publish—

18 “(A) a manual to assist small systems in
19 obtaining assistance under this title; and

20 “(B) in the Federal Register, notice of the
21 availability of the manual.”.

22 **SEC. 102. PROJECTS ELIGIBLE FOR ASSISTANCE.**

23 Section 603 of the Federal Water Pollution Control
24 Act (33 U.S.C. 1383) is amended by striking subsection
25 (c) and inserting the following:

1 “(c) PROJECTS ELIGIBLE FOR ASSISTANCE.—Funds
2 in each State water pollution control revolving fund shall
3 be used only by a municipality or an intermunicipal, inter-
4 state, or State agency (or, for the purpose of paragraph
5 (1), by either of those entities or a private treatment
6 works or decentralized wastewater system that principally
7 treats municipal wastewater or domestic sewage)—

8 “(1) to provide financial assistance for con-
9 struction activities (including expansion to meet
10 needs of existing development), including planning,
11 design, associated preconstruction planning activities
12 (as defined in section 212) and implementation
13 measures to control, manage, reduce, treat, infil-
14 trate, or reuse municipal stormwater, the primary
15 purpose of which is the protection, preservation, or
16 enhancement of water quality to support public pur-
17 poses (including the procurement and use of equip-
18 ment to support minimum measures, such as street
19 sweeping and storm drain system cleaning, and ac-
20 quisition of other land and interests in land to meet
21 the needs of existing development that are necessary
22 for those activities and measures);

23 “(2) to implement a management program es-
24 tablished under section 319;

1 “(3) to develop and implement a conservation
2 and management plan under section 320;

3 “(4) to increase the security of wastewater
4 treatment works (excluding any expenditure for op-
5 erations or maintenance);

6 “(5) to carry out water conservation or effi-
7 ciency projects, the primary purpose of which is the
8 protection, preservation, or enhancement of water
9 quality to support public purposes;

10 “(6) to implement measures to integrate water
11 resource management planning and implementation;

12 “(7) to carry out water and wastewater reuse,
13 reclamation, and recycling projects, the primary pur-
14 pose of which is the protection, preservation, or en-
15 hancement of water quality to support public pur-
16 poses; and

17 “(8) for capital costs associated with moni-
18 toring equipment for combined or sanitary sewer
19 overflows.”.

20 **SEC. 103. AFFORDABILITY.**

21 (a) IN GENERAL.—Section 603 of the Federal Water
22 Pollution Control Act (33 U.S.C. 1383) is amended—

23 (1) by redesignating subsections (e) through (h)
24 as subsections (g) through (j), respectively;

25 (2) in subsection (d)—

1 (A) in paragraph (1)—

2 (i) in subparagraph (A), by striking
3 “20 years” and inserting “the lesser of 30
4 years or the design life of the project to be
5 financed with the proceeds of the loan”;
6 and

7 (ii) in subparagraph (B), by striking
8 “not later than 20 years after project com-
9 pletion” and inserting “upon the expiration
10 of the term of the loan”;

11 (B) in paragraph (6), by striking “and” at
12 the end; and

13 (C) in paragraph (7), by striking “title, ex-
14 cept that” and all that follows and inserting the
15 following:

16 “title, except that—

17 “(A) such amounts shall not exceed 6 per-
18 cent of all grant awards to the fund under this
19 title; and

20 “(B) if there is no appropriation for a fis-
21 cal year, the total amount of the reasonable
22 cost of administering the fund and conducting
23 activities under this title shall not exceed 6 per-
24 cent of all loan awards made by the State for
25 that fiscal year; and

1 “(8) as a source of revenue (restricted solely to
 2 interest earnings of the fund) or security for pay-
 3 ment of the principal and interest on revenue or
 4 general obligation bonds issued by the State to pro-
 5 vide matching funds under section 602(b)(2), if the
 6 proceeds of the sale of the bonds will be deposited
 7 in the fund.”; and

8 (3) by inserting after subsection (d) the fol-
 9 lowing:

10 “(e) ADDITIONAL ASSISTANCE FOR DISADVANTAGED
 11 COMMUNITIES.—

12 “(1) DEFINITION OF DISADVANTAGED COMMU-
 13 NITY.—In this subsection, the term ‘disadvantaged
 14 community’ means a community with a service area,
 15 or portion of a service area, of a treatment works
 16 that meets affordability criteria established after
 17 public review and comment by the State in which the
 18 treatment works is located.

19 “(2) LOAN SUBSIDY.—Notwithstanding any
 20 other provision of this section, in a case in which the
 21 State makes a loan from the water pollution control
 22 revolving loan fund in accordance with subsection (c)
 23 to a disadvantaged community or a community that
 24 the State expects to become a disadvantaged com-

1 munity as the result of a proposed project, the State
2 may provide additional subsidization, including—

3 “(A) the forgiveness of all or a portion of
4 the principal of the loan; and

5 “(B) a negative interest rate on the loan.

6 “(3) TOTAL AMOUNT OF SUBSIDIES.—For each
7 fiscal year, the total amount of loan subsidies made
8 by the State pursuant to this subsection may not ex-
9 ceed 30 percent of the amount of the capitalization
10 grant received by the State for the fiscal year.

11 “(4) INFORMATION.—The Administrator may
12 publish information to assist States in establishing
13 affordability criteria described in paragraph (1).

14 “(f) COST-SAVING WATER TREATMENT AND EFFI-
15 CIENCY IMPROVEMENTS.—Subject to subsection (e)(3), in
16 providing a loan for a project under this section, a State
17 may forgive repayment of such portion of the loan amount,
18 not to exceed 5 percent, as is equal to the percentage of
19 the project that is devoted to alternative approaches to
20 wastewater and stormwater controls (including non-
21 structural methods) such as projects that treat or mini-
22 mize sewage or urban stormwater discharges using—

23 “(1) decentralized or distributed stormwater
24 controls;

25 “(2) decentralized wastewater treatment;

- 1 “(3) low-impact development technologies and
- 2 nonstructural approaches;
- 3 “(4) stream buffers;
- 4 “(5) wetland restoration and enhancement;
- 5 “(6) actions to minimize the quantity of and di-
- 6 rect connections to impervious surfaces;
- 7 “(7) soil and vegetation, or other permeable
- 8 materials;
- 9 “(8) actions that increase efficient water use,
- 10 water conservation, or water reuse.”.

11 (b) CONFORMING AMENDMENT.—Section 221(d) of
 12 the Federal Water Pollution Control Act (33 U.S.C.
 13 1301(d)) is amended in the second sentence by striking
 14 “603(h)” and inserting “603(j)”.

15 **SEC. 104. WATER POLLUTION CONTROL REVOLVING LOAN**
 16 **FUNDS.**

17 Section 603 of the Federal Water Pollution Control
 18 Act (33 U.S.C. 1383) is amended by striking subsection
 19 (i) (as redesignated by section 103(a)(1)) and inserting
 20 the following:

21 “(i) PRIORITY SYSTEM REQUIREMENT.—

22 “(1) DEFINITIONS.—In this subsection:

23 “(A) RESTRUCTURING.—The term ‘re-

24 structuring’ means—

1 “(i) the consolidation of management
2 functions or ownership with another facil-
3 ity; or

4 “(ii) the formation of cooperative
5 partnerships.

6 “(B) TRADITIONAL WASTEWATER AP-
7 PROACH.—The term ‘traditional wastewater ap-
8 proach’ means a managed system used to col-
9 lect and treat wastewater from an entire service
10 area consisting of—

11 “(i) collection sewers;

12 “(ii) a centralized treatment plant
13 using biological, physical, or chemical
14 treatment processes; and

15 “(iii) a direct point source discharge
16 to surface water.

17 “(2) PRIORITY SYSTEM.—In providing financial
18 assistance from the water pollution control revolving
19 fund of the State, the State shall establish a priority
20 system that—

21 “(A) gives greater weight to an application
22 for assistance by the owner or operator of a
23 treatment works if the application includes—

1 “(i) an inventory of assets, including
2 a description of the condition of those as-
3 sets;

4 “(ii) a schedule for replacement of the
5 assets;

6 “(iii) a financing plan that factors in
7 all lifecycle costs indicating sources of rev-
8 enue from ratepayers, grants, bonds, other
9 loans, and other sources to meet the costs;

10 “(iv) a review of options for restruc-
11 turing the treatment works; or

12 “(v) approaches other than a tradi-
13 tional wastewater approach that treat or
14 minimize sewage or urban stormwater dis-
15 charges using—

16 “(I) decentralized or distributed
17 stormwater controls;

18 “(II) decentralized wastewater
19 treatment;

20 “(III) low-impact development
21 technologies and nonstructural ap-
22 proaches;

23 “(IV) stream buffers;

24 “(V) wetland restoration and en-
25 hancement;

1 “(VI) actions to minimize the
2 quantity of and direct connections to
3 impervious surfaces;

4 “(VII) soil and vegetation, or
5 other permeable materials; or

6 “(VIII) actions that increase effi-
7 cient water use, water conservation, or
8 water reuse;

9 “(vi) a demonstration of consistency
10 with State, regional, and municipal water-
11 shed plans, water conservation and effi-
12 ciency plans, or integrated water resource
13 management plans;

14 “(vii) a proposal by the applicant
15 demonstrating flexibility through alter-
16 native means to carry out responsibilities
17 under Federal regulations, that may in-
18 clude watershed permitting and other inno-
19 vative management approaches, while
20 achieving results that—

21 “(I) the State, in the case of a
22 permit program approved under sec-
23 tion 402, determines will meet permit
24 requirements; or

1 “(II) the Administrator deter-
2 mines are measurably superior when
3 compared to regulatory standards;

4 “(B) takes into consideration appropriate
5 chemical, physical, and biological data relating
6 to water quality that the State considers rea-
7 sonably available and of sufficient quality;

8 “(C) provides for public notice and oppor-
9 tunity to comment on the establishment of the
10 priority system and the summary under sub-
11 paragraph (D);

12 “(D) provides for the publication, not less
13 than biennially in summary form, of a descrip-
14 tion of projects in the State that are eligible for
15 assistance under this title that indicates—

16 “(i) the priority assigned to each
17 project under the priority system of the
18 State; and

19 “(ii) the funding schedule for each
20 project, to that extent the information is
21 available; and

22 “(E) ensures that projects undertaken with
23 assistance under this title are designed to
24 achieve, as determined by the State, the opti-
25 mum water quality management, consistent

1 with the public health and water quality goals
2 and requirements of this Act.”.

3 **SEC. 105. TRANSFERABILITY OF FUNDS.**

4 Section 603 of the Federal Water Pollution Control
5 Act (33 U.S.C. 1383) (as amended by section 103(a)(1))
6 is amended by adding at the end the following:

7 “(k) TRANSFER OF FUNDS.—

8 “(1) IN GENERAL.—The Governor of a State
9 may—

10 “(A)(i) reserve not more than 33 percent
11 of a capitalization grant made under this title;
12 and

13 “(ii) add the funds reserved to any funds
14 provided to the State under section 1452 of the
15 Safe Drinking Water Act (42 U.S.C. 300j–12);
16 and

17 “(B)(i) reserve for any year an amount
18 that does not exceed the amount that may be
19 reserved under subparagraph (A) for that year
20 from capitalization grants made under section
21 1452 of that Act (42 U.S.C. 300j–12); and

22 “(ii) add the reserved funds to any funds
23 provided to the State under this title.

24 “(2) STATE MATCH.—Funds reserved under
25 this subsection shall not be considered to be a State

1 contribution for a capitalization grant required
2 under this title or section 1452(b) of the Safe
3 Drinking Water Act (42 U.S.C. 300j–12(b)).”.

4 **SEC. 106. NONCOMPLIANCE.**

5 Section 603 of the Federal Water Pollution Control
6 Act (33 U.S.C. 1383) (as amended by section 105) is
7 amended by adding at the end the following:

8 “(1) NONCOMPLIANCE.—

9 “(1) IN GENERAL.—Except as provided in para-
10 graph (2), no assistance (other than assistance that
11 is to be used by a treatment works solely for plan-
12 ning, design, or security purposes) shall be provided
13 under this title to the owner or operator of a treat-
14 ment works that has been in significant noncompli-
15 ance with any requirement of this Act for any of the
16 4 quarters during the preceding 8 quarters, unless
17 the treatment works is in compliance with an en-
18 forceable administrative order to effect compliance
19 with the requirement.

20 “(2) EXCEPTION.—An owner or operator of a
21 treatment works that is determined under paragraph
22 (1) to be in significant noncompliance with a re-
23 quirement described in that paragraph may receive
24 assistance under this title if the Administrator and
25 the State providing the assistance determine that—

1 “(A) the entity conducting the enforcement
 2 action on which the determination of significant
 3 noncompliance is based has determined that the
 4 use of assistance would enable the owner or op-
 5 erator of the treatment works to take corrective
 6 action toward resolving the violations; or

7 “(B) the entity conducting the enforcement
 8 action on which the determination of significant
 9 noncompliance is based has determined that the
 10 assistance would be used by the owner or oper-
 11 ator of the treatment works in order to assist
 12 owners and operators in making progress to-
 13 wards compliance.”.

14 **SEC. 107. NEGOTIATION OF CONTRACTS.**

15 Section 603 of the Federal Water Pollution Control
 16 Act (33 U.S.C. 1383) (as amended by section 106) is
 17 amended by adding at the end the following:

18 “(m) NEGOTIATION OF CONTRACTS.—

19 “(1) IN GENERAL.—A contract to be carried
 20 out using funds directly made available by a capital-
 21 ization grant under this section for program man-
 22 agement, construction management, feasibility stud-
 23 ies, preliminary engineering, design, engineering,
 24 surveying, mapping, or architectural or related serv-
 25 ices shall be negotiated in the same manner as—

1 “(A) a contract for architectural and engi-
 2 neering services is negotiated under chapter 11
 3 of title 40, United States Code; or

4 “(B) an equivalent State qualifications-
 5 based requirement (as determined by the Gov-
 6 ernor of the State).

7 “(2) EXEMPTION FOR SMALL COMMUNITIES.—
 8 Paragraph (1) shall not apply to a contract de-
 9 scribed in that paragraph for program management,
 10 construction management, feasibility studies, pre-
 11 liminary engineering, design, engineering, surveying,
 12 mapping, or architectural or related services for a
 13 community of 10,000 or fewer individuals.”.

14 **SEC. 108. ALLOTMENT OF FUNDS.**

15 Section 604 of the Federal Water Pollution Control
 16 Act (33 U.S.C. 1384) is amended by striking subsection
 17 (b) and inserting the following:

18 “(b) RESERVATION OF FUNDS.—

19 “(1) PLANNING.—Each State may reserve for
 20 each fiscal year the greater of 2 percent of the sums
 21 allotted to the State under this section for the fiscal
 22 year, or \$100,000, to carry out planning under sec-
 23 tions 205(j) and 303(e).

24 “(2) INDIAN TRIBES.—Of the total amount of
 25 funds made available under paragraph (1), 1.5 per-

1 cent shall be allocated to Indian tribes (as defined
2 in section 518(h)).”.

3 **SEC. 109. AUTHORIZATION OF APPROPRIATIONS.**

4 The Federal Water Pollution Control Act is amended
5 by striking section 607 (33 U.S.C. 1387) and inserting
6 the following:

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

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

10 “(1) \$3,200,000,000 for each of fiscal years
11 2008 and 2009;

12 “(2) \$3,600,000,000 for fiscal year 2010;

13 “(3) \$4,000,000,000 for fiscal year 2011; and

14 “(4) \$6,000,000,000 for fiscal year 2012.

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

17 “(c) RESERVATION FOR NEEDS SURVEYS.—Of the
18 amount made available under subsection (a) to carry out
19 this title for a fiscal year, the Administrator may reserve
20 not more than \$1,000,000 for the fiscal year, to remain
21 available until expended, to pay the costs of conducting
22 needs surveys under section 516(b)(1)(B).”.

1 **SEC. 110. SEWER OVERFLOW CONTROL GRANTS.**

2 (a) SEWER OVERFLOW CONTROL GRANTS.—Section
3 221 of the Federal Water Pollution Control Act (33
4 U.S.C. 1301) is amended—

5 (1) in subsection (a), by striking “IN GEN-
6 ERAL” and all that follows through “(2) subject to
7 subsection (g), the Administrator may” and insert-
8 ing the following:

9 “(a) IN GENERAL.—The Administrator may—

10 “(1) make grants to States for the purpose of
11 providing grants to a municipality or municipal enti-
12 ty for planning, design, and construction of treat-
13 ment works to intercept, transport, control, or treat
14 municipal combined sewer overflows and sanitary
15 sewer overflows; and

16 “(2) subject to subsection (g),”; and

17 (2) by striking subsections (e) through (g) and
18 inserting the following:

19 “(e) ADMINISTRATIVE REQUIREMENTS.—

20 “(1) IN GENERAL.—Subject to paragraph (2), a
21 project that receives grant assistance under sub-
22 section (a) shall be carried out subject to the same
23 requirements as a project that receives assistance
24 from a State water pollution control revolving fund
25 established pursuant to title VI.

1 “(2) DETERMINATION OF GOVERNOR.—The re-
 2 quirement described in paragraph (1) shall not apply
 3 to a project that receives grant assistance under
 4 subsection (a) to the extent that the Governor of the
 5 State in which the project is located determines that
 6 a requirement described in title VI is inconsistent
 7 with the purposes of this section.

8 “(f) AUTHORIZATION OF APPROPRIATIONS.—There
 9 are authorized to be appropriated to carry out this section,
 10 to remain available until expended—

11 “(1) \$375,000,000 for fiscal year 2008;

12 “(2) \$375,000,000 for fiscal year 2009;

13 “(3) \$375,000,000 for fiscal year 2010;

14 “(4) \$375,000,000 for fiscal year 2011; and

15 “(5) \$500,000,000 for fiscal year 2012.

16 “(g) ALLOCATION OF FUNDS.—

17 “(1) FISCAL YEAR 2008 AND 2009.—For each of
 18 fiscal years 2008 and 2009, subject to subsection
 19 (h), the Administrator shall use the amounts made
 20 available to carry out this section to provide grants
 21 to municipalities and municipal entities under sub-
 22 section (a)(2)—

23 “(A) in accordance with the priority cri-
 24 teria described in subsection (b); and

“(B) with additional priority given to proposed projects that involve the use of—

“(i) nonstructural, low-impact development;

“(ii) water conservation, efficiency, or reuse; or

“(iii) other decentralized stormwater or wastewater approaches to minimize flows into the sewer systems.

“(2) FISCAL YEAR 2010 AND THEREAFTER.—

For fiscal year 2010 and each fiscal year thereafter, subject to subsection (h), the Administrator shall use the amounts made available to carry out this section to provide grants to States under subsection (a)(1) in accordance with a formula that—

“(A) shall be established by the Administrator, after providing notice and an opportunity for public comment; and

“(B) allocates to each State a proportional share of the amounts based on the total needs of the State for municipal combined sewer overflow controls and sanitary sewer overflow controls, as identified in the most recent survey—

“(i) conducted under section 210; and

1 “(ii) included in a report required
2 under section 516(b)(1)(B).”.

3 (b) REPORTS.—Section 221(i) of the Federal Water
4 Pollution Control Act (33 U.S.C. 1301(i)) is amended in
5 the first sentence by striking “2003” and inserting
6 “2010”.

7 **SEC. 111. CAPITALIZATION GRANT AGREEMENTS.**

8 Section 602(b) of the Federal Water Pollution Con-
9 trol Act (33 U.S.C. 1382(b)) is amended by striking para-
10 graph (6) and inserting the following:

11 “(6) treatment works eligible under section
12 603(c) that are constructed, in whole or in part,
13 using funds made available by a State loan fund
14 under this title shall meet the requirements of sec-
15 tion 513 in the same manner as treatment works
16 constructed using assistance provided under title
17 II;”.

18 **SEC. 112. CRITICAL WATER INFRASTRUCTURE PROJECTS.**

19 (a) ESTABLISHMENT.—The Administrator of the En-
20 vironmental Protection Agency (referred to in this section
21 as the “Administrator”) shall establish a program under
22 which grants are provided to eligible entities for use in
23 carrying out projects and activities the primary purpose
24 of which is watershed restoration through the protection
25 or improvement of water quality.

1 (b) PROJECT SELECTION.—

2 (1) IN GENERAL.—The Administrator may pro-
3 vide funds under this section to an eligible entity to
4 carry out an eligible project described in paragraph
5 (3).

6 (2) EQUITABLE DISTRIBUTION.—The Adminis-
7 trator shall ensure an equitable distribution of
8 projects under this section, taking into account cost
9 and number of requests for each category listed in
10 paragraph (3).

11 (3) ELIGIBLE PROJECTS.—A project that is eli-
12 gible to be carried out using funds provided under
13 this section may include projects that are included
14 in the intended use plan of the State developed in
15 accordance with section 606(c) of the Federal Water
16 Pollution Control Act (33 U.S.C. 1386(c)).

17 (c) LOCAL PARTICIPATION.—In prioritizing projects
18 for implementation under this section, the Administrator
19 shall consult with, and consider the priorities of—

20 (1) affected State and local governments; and

21 (2) public and private entities that are active in
22 watershed planning and restoration.

23 (d) COST SHARING.—Before carrying out any project
24 under this section, the Administrator shall enter into an

1 agreement with 1 or more non-Federal interests that shall
2 require the non-Federal interests—

3 (1) to pay 45 percent of the total costs of the
4 project, which may include services, materials, sup-
5 plies, or other in-kind contributions;

6 (2) to provide any land, easements, rights-of-
7 way, and relocations necessary to carry out the
8 project; and

9 (3) to pay 100 percent of any operation, main-
10 tenance, repair, replacement, and rehabilitation costs
11 associated with the project.

12 (e) WAIVER.—The Administrator may waive the re-
13 quirement to pay the non-Federal share of the cost of car-
14 rying out an eligible activity using funds from a grant pro-
15 vided under this section if the Administrator determines
16 that an eligible entity is unable to pay, or would experience
17 significant financial hardship if required to pay, the non-
18 Federal share.

19 (f) AUTHORIZATION OF APPROPRIATIONS.—There is
20 authorized to be appropriated to carry out this section
21 \$50,000,000 for each of fiscal years 2008 through 2012.

**TITLE II—SAFE DRINKING
WATER INFRASTRUCTURE**

**SEC. 201. CONTAMINANT PREVENTION, DETECTION, AND
RESPONSE.**

Section 1434 of the Safe Drinking Water Act (42 U.S.C. 300i–3) is amended by striking subsection (b) and inserting the following:

“(b) REPORT.—Not later than 180 days after the date of enactment of the Water Infrastructure Financing Act, the Administrator shall submit to Congress a report that includes—

“(1) a description of the progress made as of that date in implementing this section; and

“(2) a description of any impediments to that implementation identified by the Administrator, including—

“(A) difficulty in coordinating the implementation with other Federal, State, or local agencies or organizations;

“(B) insufficient funding for effective implementation;

“(C) a lack of authorization to take certain actions (including the authority to hire necessary personnel) required to carry out the implementation; and

1 “(D) technological impediments to devel-
 2 oping the methods, means, and equipment spec-
 3 ified in subsection (a)(1).

4 “(c) IMPLEMENTATION PLAN.—The Administrator
 5 shall develop and carry out an implementation plan for
 6 this section consistent with actions taken to date and in-
 7 corporating the results of the report under subsection (b).

8 “(d) FUNDING.—There is authorized to be appro-
 9 priated to carry out this section \$7,500,000 for each of
 10 fiscal years 2008 through 2012.”.

11 **SEC. 202. DRINKING WATER TECHNICAL ASSISTANCE FOR**
 12 **COMMUNITIES.**

13 Section 1442(e) of the Safe Drinking Water Act (42
 14 U.S.C. 300j–1(e)) is amended—

15 (1) in the first sentence, by striking “The Ad-
 16 ministrator may provide” and inserting the fol-
 17 lowing:

18 “(1) PUBLIC WATER SYSTEMS.—The Adminis-
 19 trator may provide”;

20 (2) in the second sentence, by striking “Such
 21 assistance” and inserting the following:

22 “(2) TYPES OF ASSISTANCE.—Such assist-
 23 ance”;

1 (3) in the third sentence, by striking “The Ad-
 2 ministrator shall ensure” and inserting the fol-
 3 lowing:

4 “(3) AVAILABILITY.—The Administrator shall
 5 ensure”;

6 (4) in the fourth sentence, by striking “Each
 7 nonprofit” and inserting the following:

8 “(4) REQUIREMENT APPLICABLE TO NON-
 9 PROFIT ORGANIZATIONS.—Each nonprofit”; and

10 (5) by striking the fifth sentence and all that
 11 follows and inserting the following:

12 “(5) PRIORITY.—In providing grants under this
 13 section, the Administrator shall give priority to small
 14 systems organizations that, as determined by the
 15 Administrator, are qualified and will be the most ef-
 16 fective at assisting those small systems that have the
 17 greatest need (or a majority of need) in the States.

18 “(6) WELLS AND WELL SYSTEMS.—

19 “(A) IN GENERAL.—The Administrator
 20 shall provide grants to nonprofit organizations
 21 to provide technical assistance to communities
 22 and individuals regarding the design, operation,
 23 construction, and maintenance of household
 24 wells and small shared well-systems that pro-
 25 vide drinking water.

“(B) FORM OF ASSISTANCE.—Technical assistance referred to in subparagraph (A) may include—

“(i) training and education;

“(ii) operation of a hotline; and

“(iii) the conduct of other activities relating to the design and construction of household, shared, and small water well systems in rural areas.

“(C) PRIORITY.—Subject to paragraph (5), in providing grants under this section, the Administrator shall give priority to applicants that, as determined by the Administrator—

“(i) are qualified; and

“(ii) have demonstrated experience in providing similar technical assistance and in developing similar projects.

“(D) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this paragraph \$7,500,000 for each of fiscal years 2009 through 2013.

“(7) FUNDING.—

“(A) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Administrator to carry out this sub-

1 section (other than paragraph (6)) \$35,000,000
 2 for each of fiscal years 2009 through 2013.

3 “(B) LOBBYING EXPENSES.—No portion
 4 of any State loan fund established under section
 5 1452 and no portion of any funds made avail-
 6 able under this subsection may be used for lob-
 7 bying expenses.

8 “(C) INDIAN TRIBES.—Of the total
 9 amount made available under this section for
 10 each fiscal year, 3 percent shall be used for
 11 technical assistance to public water systems
 12 owned or operated by Indian Tribes.”.

13 **SEC. 203. PRESERVATION OF EMPLOYEE LABOR STAND-**
 14 **ARDS.**

15 Section 1450 of the Safe Drinking Water Act (42
 16 U.S.C. 300j-9) is amended by striking subsection (e) and
 17 inserting the following:

18 “(e) LABOR STANDARDS.—

19 “(1) IN GENERAL.—The Administrator shall
 20 take such action as the Administrator determines to
 21 be necessary to ensure that each laborer and me-
 22 chanic employed by a contractor or subcontractor of
 23 a construction project financed, in whole or in part,
 24 by a grant, loan, loan guarantee, refinancing, or any
 25 other form of financial assistance provided under

1 this Act (including assistance provided by a State
 2 loan fund established under section 1452) is paid
 3 wages at a rate of not less than the wages prevailing
 4 for the same type of work on similar construction in
 5 the immediate locality, as determined by the Sec-
 6 retary of Labor in accordance with subchapter IV of
 7 chapter 31 of title 40, United States Code.

8 “(2) AUTHORITY OF SECRETARY OF LABOR.—
 9 With respect to the labor standards specified in this
 10 subsection, the Secretary of Labor shall have the au-
 11 thority and functions established in Reorganization
 12 Plan Numbered 14 of 1950 (5 U.S.C. App.) and sec-
 13 tion 3145 of title 40, United States Code.”.

14 **SEC. 204. PRECONSTRUCTION WORK.**

15 Section 1452(a)(2) of the Safe Drinking Water Act
 16 (42 U.S.C. 300j–12(a)(2)) is amended—

17 (1) by designating the first, second, third,
 18 fourth, and fifth sentences as subparagraphs (A),
 19 (B), (D), (E), and (F), respectively;

20 (2) in subparagraph (B) (as designated by
 21 paragraph (1))—

22 (A) by striking “(not” and inserting “(in-
 23 cluding expenditures for planning, design, and
 24 associated preconstruction activities, including

1 activities relating to the siting of the facility,
2 but not”; and

3 (B) by inserting before the period at the
4 end the following: “or to replace or rehabilitate
5 aging treatment, storage (including reservoirs),
6 or distribution facilities of public water systems
7 or provide for capital projects to upgrade the
8 security of public water systems”; and

9 (3) by inserting after subparagraph (B) (as
10 designated by paragraph (1)) the following:

11 “(C) SALE OF BONDS.—Funds may also
12 be used by a public water system to increase se-
13 curity at the public water system (excluding any
14 expenditure for operations and maintenance), or
15 as a source of revenue (restricted solely to in-
16 terest earnings of the applicable State loan
17 fund) or security for payment of the principal
18 and interest on revenue or general obligation
19 bonds issued by the State to provide matching
20 funds under subsection (e), if the proceeds of
21 the sale of the bonds will be deposited in the
22 State loan fund.”.

23 **SEC. 205. PRIORITY SYSTEM REQUIREMENTS.**

24 Section 1452(b)(3) of the Safe Drinking Water Act
25 (42 U.S.C. 300j–12(b)(3)) is amended—

1 (1) by redesignating subparagraph (B) as sub-
 2 paragraph (D);

3 (2) by striking subparagraph (A) and inserting
 4 the following:

5 “(A) DEFINITION OF RESTRUCTURING.—

6 In this paragraph, the term ‘restructuring’
 7 means changes in operations (including owner-
 8 ship, cooperative partnerships, asset manage-
 9 ment, consolidation, and alternative water sup-
 10 ply).

11 “(B) PRIORITY SYSTEM.—An intended use
 12 plan shall provide, to the maximum extent prac-
 13 ticable, that priority for the use of funds be
 14 given to projects that—

15 “(i) address the most serious risk to
 16 human health;

17 “(ii) are necessary to ensure compli-
 18 ance with this title (including requirements
 19 for filtration); and

20 “(iii) assist systems most in need on
 21 a per-household basis according to State
 22 affordability criteria.

23 “(C) WEIGHT GIVEN TO APPLICATIONS.—

24 After determining project priorities under sub-
 25 paragraph (B), an intended use plan shall fur-

ther provide that the State shall give greater weight to an application for assistance by a community water system if the application includes such information as the State determines to be necessary, including—

“(i) an inventory of assets, including a description of the condition of the assets;

“(ii) a schedule for replacement of assets;

“(iii) a financing plan that factors in all life-cycle costs indicating sources of revenue from ratepayers, grants, bonds, other loans, and other sources to meet the costs;

“(iv) a review of options for restructuring the public water system;

“(v) demonstration of consistency with State, regional, and municipal watershed plans; and

“(vi) a water conservation plan consistent with guidelines developed for those plans by the Administrator under section 1455(a).”; and

(3) in subparagraph (D) (as redesignated by paragraph (1)), by striking “periodically” and inserting “at least biennially”.

1 **SEC. 206. AFFORDABILITY.**

2 Section 1452(d)(3) of the Safe Drinking Water Act
3 (42 U.S.C. 300j–12(d)(3)) is amended in the first sen-
4 tence by inserting “, or portion of a service area,” after
5 “service area”.

6 **SEC. 207. SAFE DRINKING WATER REVOLVING LOAN**
7 **FUNDS.**

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

10 (1) paragraph (2)—

11 (A) in the first sentence, by striking “4”
12 and inserting “6”; and

13 (B) by striking “1419,” and all that fol-
14 lows through “1993.” and inserting “1419.”;
15 and

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

17 “(5) TRANSFER OF FUNDS.—

18 “(A) IN GENERAL.—The Governor of a
19 State may—

20 “(i)(I) reserve not more than 33 per-
21 cent of a capitalization grant made under
22 this section; and

23 “(II) add the funds reserved to any
24 funds provided to the State under section
25 601 of the Federal Water Pollution Con-
26 trol Act (33 U.S.C. 1381); and

1 “(ii)(I) reserve for any fiscal year an
 2 amount that does not exceed the amount
 3 that may be reserved under clause (i)(I)
 4 for that year from capitalization grants
 5 made under section 601 of that Act (33
 6 U.S.C. 1381); and

7 “(II) add the reserved funds to any
 8 funds provided to the State under this sec-
 9 tion.

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

16 **SEC. 208. OTHER AUTHORIZED ACTIVITIES.**

17 Section 1452(k)(2)(D) of the Safe Drinking Water
 18 Act (42 U.S.C. 300j–12(k)(2)(D)) is amended by inserting
 19 before the period at the end the following: “(including im-
 20 plementation of source water protection plans)”.

21 **SEC. 209. AUTHORIZATION OF APPROPRIATIONS.**

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

25 “(m) AUTHORIZATION OF APPROPRIATIONS.—

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

3 “(A) \$1,500,000,000 for fiscal year 2008;

4 “(B) \$2,000,000,000 for each of fiscal
5 years 2009 and 2010;

6 “(C) \$3,500,000,000 for fiscal year 2011;

7 and

8 “(D) \$6,000,000,000 for fiscal year 2012.

9 “(2) AVAILABILITY.—Amounts made available
10 under this subsection shall remain available until ex-
11 pended.

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

18 **SEC. 210. NEGOTIATION OF CONTRACTS.**

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

22 “(s) NEGOTIATION OF CONTRACTS.—

23 “(1) IN GENERAL.—A contract to be carried
24 out using funds directly made available by a capital-
25 ization grant under this section for program man-

1 agement, construction management, feasibility stud-
 2 ies, preliminary engineering, design, engineering,
 3 surveying, mapping, or architectural or related serv-
 4 ices shall be negotiated in the same manner as—

5 “(A) a contract for architectural and engi-
 6 neering services is negotiated under chapter 11
 7 of title 40, United States Code; or

8 “(B) an equivalent State qualifications-
 9 based requirement (as determined by the Gov-
 10 ernor of the State).

11 “(2) EXEMPTION FOR SMALL COMMUNITIES.—

12 Paragraph (1) shall not apply to a contract de-
 13 scribed in that paragraph for program management,
 14 construction management, feasibility studies, pre-
 15 liminary engineering, design, engineering, surveying,
 16 mapping, or architectural or related services for a
 17 community of 10,000 or fewer individuals.”.

18 **SEC. 211. CRITICAL DRINKING WATER INFRASTRUCTURE**
 19 **PROJECTS.**

20 (a) ESTABLISHMENT.—Not later than 180 days after
 21 the date of enactment of this Act, the Administrator of
 22 the Environmental Protection Agency shall establish a
 23 program under which grants are provided to eligible enti-
 24 ties for use in carrying out projects and activities the pri-
 25 mary purpose of which is to assist community water sys-

1 tems in meeting the requirements of the Safe Drinking
 2 Water Act (42 U.S.C. 300f et seq.).

3 (b) PROJECT SELECTION.—A project that is eligible
 4 to be carried out using funds provided under this section
 5 may include projects that—

6 (1) develop alternative water sources;

7 (2) provide assistance to small systems; or

8 (3) assist a community water system—

9 (A) to comply with a national primary
 10 drinking water regulation; or

11 (B) to mitigate groundwater contamina-
 12 tion, including saltwater intrusion.

13 (c) ELIGIBLE ENTITIES.—An entity eligible to re-
 14 ceive a grant under this section is—

15 (1) a community water system as defined in
 16 section 1401 of the Safe Drinking Water Act (42
 17 U.S.C. 300f); or

18 (2) a system that is located in an area governed
 19 by an Indian Tribe (as defined in section 1401 of
 20 the Safe Drinking Water Act (42 U.S.C. 300f));

21 (d) PRIORITY.—In prioritizing projects for implemen-
 22 tation under this section, the Administrator shall give pri-
 23 ority to community water systems that—

24 (1) serve a community that, under affordability
 25 criteria established by the State under section

1 1452(d)(3) of the Safe Drinking Water Act (42
2 U.S.C. 300j-12), is determined by the State to be—

3 (A) a disadvantaged community; or

4 (B) a community that may become a dis-
5 advantaged community as a result of carrying
6 out an eligible activity; or

7 (2) serve a community with a population of less
8 than 10,000 individuals.

9 (e) LOCAL PARTICIPATION.—In prioritizing projects
10 for implementation under this section, the Administrator
11 shall consult with, and consider the priorities of, affected
12 States, Indian Tribes, and local governments.

13 (f) COST-SHARING.—Before carrying out any project
14 under this section, the Administrator shall enter into a
15 binding agreement with 1 or more non-Federal interests
16 that shall require the non-Federal interests—

17 (1) to pay 45 percent of the total costs of the
18 project, which may include services, materials, sup-
19 plies, or other in-kind contributions;

20 (2) to provide any land, easements, rights-of-
21 way, and relocations necessary to carry out the
22 project; and

23 (3) to pay 100 percent of any operation, main-
24 tenance, repair, replacement, and rehabilitation costs
25 associated with the project.

1 (g) WAIVER.—The Administrator may waive the re-
 2 quirement to pay the non-Federal share of the cost of car-
 3 rying out an eligible activity using funds from a grant pro-
 4 vided under this section if the Administrator determines
 5 that an eligible entity is unable to pay, or would experience
 6 significant financial hardship if required to pay, the non-
 7 Federal share.

8 (h) AUTHORIZATION OF APPROPRIATIONS.—There is
 9 authorized to be appropriated to carry out this section
 10 \$300,000,000 for each of fiscal years 2008 through 2012.

11 **SEC. 212. DISTRICT OF COLUMBIA LEAD SERVICE LINE RE-**
 12 **PLACEMENT.**

13 (a) SERVICE LINE REPLACEMENT.—

14 (1) GALVANIC EFFECTS.—In carrying out lead
 15 service line replacement in the District of Columbia,
 16 the galvanic effects of replacement of the service
 17 lines shall be addressed prior to replacement.

18 (2) AUTHORIZATION OF APPROPRIATIONS.—
 19 There is authorized to be appropriated to carry out
 20 lead service line replacement in the District of Co-
 21 lumbia \$30,000,000 for each of fiscal years 2008
 22 through 2012.

23 (b) LEAD SERVICE LINE REPLACEMENT ASSISTANCE
 24 FUND.—

1 (1) DEFINITION OF LOW-INCOME.—In this sub-
 2 section, the term “low-income” shall be defined by
 3 the District of Columbia.

4 (2) GRANTS.—Of the funds provided under sub-
 5 section (a)(2), not more than \$2,000,000 per year
 6 may be allocated for water service line replacement
 7 grants to provide assistance to low-income residents
 8 to replace the privately-owned portion of lead service
 9 lines.

10 (3) LIMITATION.—An individual grant provided
 11 under paragraph (2) shall not exceed \$5,000.

12 **TITLE III—MISCELLANEOUS**

13 **SEC. 301. DEFINITIONS.**

14 In this title:

15 (1) ACADEMY.—The term “Academy” means
 16 the National Academy of Sciences.

17 (2) ADMINISTRATOR.—The term “Adminis-
 18 trator” means the Administrator of the Environ-
 19 mental Protection Agency.

20 (3) SECRETARY.—The term “Secretary” means
 21 the Secretary of Agriculture.

22 **SEC. 302. PROGRAM FOR WATER QUALITY ENHANCEMENT** 23 **AND MANAGEMENT.**

24 (a) INITIAL GRANT PROGRAM.—

1 (1) IN GENERAL.—Not later than 2 years after
2 the date of enactment of this Act, the Administrator
3 shall establish a program to award grants and enter
4 into contracts and cooperative agreements with re-
5 search institutions, institutions of higher education,
6 and other appropriate entities (including consortia of
7 such institutions and entities), through a competitive
8 process, for research on and development of the use
9 of innovative and alternative technologies to improve
10 water quality or drinking water supply.

11 (2) TYPES OF PROJECTS.—In carrying out this
12 subsection, the Administrator may select projects re-
13 lating to such matters as innovative or alternative
14 technologies, approaches, practices, or methods—

15 (A) to increase the effectiveness and effi-
16 ciency of water and wastewater infrastructure
17 through the use of integrated water resource
18 management;

19 (B) to increase the effectiveness and effi-
20 ciency of public water systems, including—

21 (i) source water protection;

22 (ii) water use reduction;

23 (iii) water reuse;

24 (iv) water treatment;

- 1 (v) water distribution and wastewater
2 collection systems; and
3 (vi) water security;
- 4 (C) to encourage the use of innovative or
5 alternative technologies or approaches relating
6 to water supply or availability;
- 7 (D) to increase the effectiveness and effi-
8 ciency of new and existing treatment works, in-
9 cluding—
- 10 (i) methods of collecting, treating, dis-
11 persing, reusing, reclaiming, and recycling
12 wastewater;
- 13 (ii) system design;
- 14 (iii) nonstructural alternatives;
- 15 (iv) decentralized approaches;
- 16 (v) stormwater and wastewater reuse;
- 17 (vi) water efficiency and conservation;
- 18 and
- 19 (vii) wastewater security;
- 20 (E) to increase the effectiveness and effi-
21 ciency of municipal separate storm sewer sys-
22 tems and combined sewer systems, including
23 through the use of soil and vegetation or other
24 permeable materials;

(F) to promote new water treatment technologies and management approaches, including commercialization and dissemination strategies for adoption of innovative water, wastewater, and stormwater technologies and management approaches or low-impact development technologies in the homebuilding industry; or

(G) to maintain a clearinghouse of technologies and management approaches developed under this subsection and subsection (b) at a research consortium or institute.

(3) REPORT.—Not later than 2 years after the date on which the program is established under paragraph (1), the Administrator shall publish a report that details the findings of each recipient of a grant under the program with respect to the identification of any potential new technologies or management approaches developed in accordance with this section.

(b) NATIONWIDE GRANT PROGRAM.—

(1) DEFINITION OF MUNICIPALITY.—In this subsection, the term “municipality” means—

(A) a city, town, borough, county, parish, district, association, or other public body created by or pursuant to State law; or

1 (B) an Indian tribe (as defined in section
2 4 of the Indian Self-Determination and Edu-
3 cation Assistance Act (25 U.S.C. 450b)).

4 (2) ESTABLISHMENT.—Not later than 90 days
5 after the date of publication of the report under sub-
6 section (a)(3), the Administrator shall establish a
7 nationwide demonstration grant program—

8 (A) to promote innovations in technology
9 and alternative approaches to water quality
10 management or water supply developed under
11 subsection (a); and

12 (B) to reduce costs to municipalities in-
13 curred in complying with the Federal Water
14 Pollution Control Act (33 U.S.C. 1251 et seq.)
15 and the Safe Drinking Water Act (42 U.S.C.
16 300f et seq.) through the approaches and tech-
17 nologies developed under subsection (a).

18 (3) SCOPE.—The demonstration grant program
19 shall consist of up to 10 projects each year, to be
20 carried out in municipalities selected by the Admin-
21 istrator under paragraph (4).

22 (4) SELECTION OF MUNICIPALITIES.—

23 (A) APPLICATION.—A municipality that
24 seeks to participate in the demonstration grant

1 program established under paragraph (2) shall
2 submit to the Administrator a plan that—

3 (i) is developed in coordination with—

4 (I) the agencies of the State hav-
5 ing jurisdiction over water quality and
6 water supply matters; and

7 (II) interested stakeholders, in-
8 cluding institutions of higher edu-
9 cation and related research institu-
10 tions;

11 (ii) describes water impacts specific to
12 urban or rural areas;

13 (iii) includes a strategy under which
14 the municipality, through participation in
15 the demonstration grant program, could ef-
16 fectively—

17 (I) address water quality or
18 water supply problems; and

19 (II) achieve the water quality
20 goals that—

21 (aa) could be achieved using
22 more traditional methods; and

23 (bb) are required under the
24 Federal Water Pollution Control
25 Act (33 U.S.C. 1251 et seq.) or

1 the Safe Drinking Water Act (42
2 U.S.C. 300f et seq.); and

3 (iv) includes a schedule for achieving
4 the water quality or water supply goals of
5 the municipality.

6 (B) CATEGORIES OF PROJECTS.—In car-
7 rying out the demonstration grant program, the
8 Administrator shall provide grants for projects
9 relating to water supply or water quality mat-
10 ters described in subsection (a)(2)(A).

11 (C) RESPONSIBILITIES OF ADMINIS-
12 TRATOR.—In providing grants for projects
13 under this subsection, the Administrator shall—

14 (i) ensure, to the maximum extent
15 practicable, that—

16 (I) the demonstration grant pro-
17 gram under this subsection includes a
18 variety of projects with respect to—

19 (aa) geographical distribu-
20 tion;

21 (bb) innovative technologies
22 used for the projects; and

23 (cc) nontraditional ap-
24 proaches (including low-impact

1 development technologies) used
 2 for the projects; and

3 (II) each category of project de-
 4 scribed in subparagraph (B) is ade-
 5 quately represented;

6 (ii) give higher priority to projects
 7 that—

8 (I) address multiple problems;
 9 and

10 (II) are regionally applicable;

11 (iii) ensure, to the maximum extent
 12 practicable, that at least 1 community hav-
 13 ing a population of 10,000 or fewer indi-
 14 viduals receives a grant for each fiscal
 15 year; and

16 (iv) ensure that, for each fiscal year,
 17 no municipality receives more than 25 per-
 18 cent of the total amount of funds made
 19 available for the fiscal year to provide
 20 grants under this subsection.

21 (D) COST SHARING.—

22 (i) IN GENERAL.—Except as provided
 23 in clause (ii), the non-Federal share of the
 24 total cost of a project funded by a grant

1 under this subsection shall be not less than
2 20 percent.

3 (ii) WAIVER.—The Administrator may
4 reduce or eliminate the non-Federal share
5 of the cost of a project for reasons of af-
6 fordability.

7 (c) REPORTS.—

8 (1) REPORTS FROM GRANT RECIPIENTS.—A re-
9 cipient of a grant under this section shall submit to
10 the Administrator, on the date of completion of a
11 project of the recipient and on each of the dates that
12 is 1, 2, and 3 years after that date, a report that
13 describes the effectiveness of the project.

14 (2) REPORTS TO CONGRESS.—Not later than 2
15 years after the date of enactment of this Act, and
16 every 2 years thereafter, the Administrator shall
17 submit to the Committee on Environment and Pub-
18 lic Works of the Senate and the Committee on
19 Transportation and Infrastructure and the Com-
20 mittee on Energy and Commerce of the House of
21 Representatives a report that describes the status
22 and results of the grant programs under this sec-
23 tion.

24 (d) INCORPORATION OF RESULTS AND INFORMA-
25 TION.—To the maximum extent practicable, the Adminis-

1 trator shall incorporate the results of, and information ob-
 2 tained from, successful projects under this section into
 3 programs administered by the Administrator.

4 (e) AUTHORIZATION OF APPROPRIATIONS.—There is
 5 authorized to be appropriated to carry out this section
 6 \$20,000,000 for each of fiscal years 2008 through 2012.

7 **SEC. 303. AGRICULTURAL POLLUTION CONTROL TECH-**
 8 **NOLOGY GRANT PROGRAM.**

9 (a) DEFINITIONS.—In this section:

10 (1) AGRICULTURAL COMMODITY.—The term
 11 “agricultural commodity” means—

12 (A) agricultural, horticultural, viticultural,
 13 and dairy products;

14 (B) livestock and the products of livestock;

15 (C) the products of poultry and bee rais-
 16 ing;

17 (D) the products of forestry; and

18 (E) other commodities raised or produced
 19 on agricultural sites, as determined to be appro-
 20 priate by the Secretary.

21 (2) AGRICULTURAL PROJECT.—The term “agri-
 22 cultural project” means an agricultural pollution
 23 control technology pilot project that, as determined
 24 by the Administrator—

25 (A) is carried out at an agricultural site;

1 (B) achieves demonstrable reductions in
 2 water pollution or water use that meet or ex-
 3 ceed those mandated by statutory or regulatory
 4 requirements; and

5 (C) will not substantially adversely affect
 6 any other long-term environmental medium, in-
 7 cluding air and groundwater resources.

8 (3) AGRICULTURAL SITE.—The term “agricul-
 9 tural site” means a farming or ranching operation of
 10 a producer.

11 (4) PRODUCER.—The term “producer” means
 12 any person who is engaged in the production and
 13 sale of an agricultural commodity in the United
 14 States and who owns, or shares the ownership and
 15 risk of loss of, the agricultural commodity.

16 (5) REVOLVING FUND.—The term “revolving
 17 fund” means an agricultural pollution control tech-
 18 nology State revolving fund established by a State
 19 using amounts provided under subsection (b)(1).

20 (b) GRANTS FOR AGRICULTURAL STATE REVOLVING
 21 FUNDS.—

22 (1) IN GENERAL.—As soon as practicable after
 23 the date of enactment of this section, the Adminis-
 24 trator shall provide to each eligible State described
 25 in paragraph (2) 1 or more capitalization grants,

1 that cumulatively equal no more than \$1,000,000
 2 per State, for use in establishing, within an agency
 3 of the State having jurisdiction over agriculture or
 4 environmental quality, an agricultural pollution con-
 5 trol technology State revolving fund.

6 (2) ELIGIBLE STATES.—An eligible State re-
 7 ferred to in paragraph (1) is a State that agrees,
 8 prior to receipt of a capitalization grant under para-
 9 graph (1)—

10 (A) to establish, and deposit the funds
 11 from the grant in, a revolving fund;

12 (B) to provide, at a minimum, a State
 13 share in an amount equal to 20 percent of the
 14 capitalization grant;

15 (C) to use amounts in the revolving fund
 16 to make loans to producers in accordance with
 17 subsection (c); and

18 (D) to return amounts in the revolving
 19 fund if no loan applications are granted within
 20 2 years of the receipt of the initial capitaliza-
 21 tion grant.

22 (c) LOANS TO PRODUCERS.—

23 (1) USE OF FUNDS.—A State that establishes
 24 a revolving fund under subsection (b)(2) shall use
 25 amounts in the revolving fund to provide loans to

1 producers for use in designing and constructing ag-
 2 ricultural projects.

3 (2) MAXIMUM AMOUNT OF LOAN.—The amount
 4 of a loan made to a producer using funds from a re-
 5 volving fund shall not exceed \$250,000, in the ag-
 6 gregate, for all agricultural projects serving an agri-
 7 cultural site of the producer.

8 (3) CONDITIONS ON LOANS.—A loan made to a
 9 producer using funds from a revolving fund shall—

10 (A) have an interest rate that is not more
 11 than the market interest rate, including an in-
 12 terest-free loan; and

13 (B) be repaid to the revolving fund not
 14 later than 20 years after the date on which the
 15 loan is made.

16 (d) REQUIREMENTS FOR PRODUCERS.—

17 (1) IN GENERAL.—A producer that seeks to re-
 18 ceive a loan from a revolving fund shall—

19 (A) submit to the State in which the agri-
 20 cultural site of the producer is located an appli-
 21 cation that—

22 (i) contains such information as the
 23 State may require; and

24 (ii) demonstrates, to the satisfaction
 25 of the State, that each project proposed to

1 be carried out with funds from the loan is
2 an agricultural project; and

3 (B) agree to expend all funds from a loan
4 in an expeditious and timely manner, as deter-
5 mined by the State.

6 (2) MAXIMUM PERCENTAGE OF AGRICULTURAL
7 PROJECT COST.—Subject to subsection (c)(2), a pro-
8 ducer that receives a loan from a revolving fund may
9 use funds from the loan to pay up to 100 percent
10 of the cost of carrying out an agricultural project.

11 (e) AUTHORIZATION OF APPROPRIATIONS.—There is
12 authorized to be appropriated to carry out this section
13 \$50,000,000.

14 **SEC. 304. STATE REVOLVING FUND REVIEW PROCESS.**

15 As soon as practicable after the date of enactment
16 of this Act, the Administrator shall—

17 (1) consult with States, utilities, nonprofit orga-
18 nizations, and other Federal agencies providing fi-
19 nancial assistance to identify ways to expedite and
20 improve the application and review process, for the
21 provision of assistance from—

22 (A) the State water pollution control re-
23 volving funds established under title VI of the
24 Federal Water Pollution Control Act (33 U.S.C.
25 1381 et seq.); and

1 (B) the State drinking water treatment re-
2 volving loan funds established under section
3 1452 of the Safe Drinking Water Act (42
4 U.S.C. 300j-12);

5 (2) in carrying out this section, the Adminis-
6 trator shall consider the needs of small treatment
7 works (as defined by section 222 of the Federal
8 Water Pollution Control Act and small public water
9 systems (as described in section 1433(d) of the Safe
10 Drinking Water Act (42 U.S.C. 300i-2(d));

11 (3) take such administrative action as is nec-
12 essary to expedite and improve the process as the
13 Administrator has authority to take under existing
14 law;

15 (4) collect information relating to innovative ap-
16 proaches taken by any State to simplify the applica-
17 tion process of the State, and provide the informa-
18 tion to each State; and

19 (5) submit to Congress a report that, based on
20 the information identified under paragraph (1), con-
21 tains recommendations for legislation to facilitate
22 further streamlining and improvement of the proc-
23 ess.

1 **SEC. 305. COST OF SERVICE STUDY.**

2 (a) IN GENERAL.—Not later than 2 years after the
3 date of enactment of this Act, the Administrator shall
4 enter an arrangement with the Academy under which the
5 Academy shall complete and provide to the Administrator
6 the results of a study of the means by which public water
7 systems and treatment works selected by the Academy in
8 accordance with subsection (c) meet the costs associated
9 with operations, maintenance, capital replacement, and
10 regulatory requirements.

11 (b) REQUIRED ELEMENTS.—

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

14 (A) determine whether the rates at public
15 water systems and treatment works for commu-
16 nities included in the study were established
17 using a full-cost pricing model;

18 (B) if a full-cost pricing model was not
19 used, identify any incentive rate systems that
20 have been successful in significantly reducing—

- 21 (i) per capita water demand;
22 (ii) the volume of wastewater flows;
23 (iii) the volume of stormwater runoff;

24 or

- 25 (iv) the quantity of pollution gen-
26 erated by stormwater;

- 1 (C) identify a set of best industry practices
2 that public water systems and treatment works
3 may use in establishing a rate structure that—
4 (i) adequately addresses the true cost
5 of services provided to consumers by public
6 water systems and treatment works, in-
7 cluding infrastructure replacement;
8 (ii) encourages water conservation;
9 and
10 (iii) takes into consideration the needs
11 of disadvantaged individuals and commu-
12 nities, as identified by the Administrator;
13 (D) identify existing standards for afford-
14 ability and the manner in which those stand-
15 ards are determined and defined;
16 (E) determine the manner in which afford-
17 ability varies with respect to communities of
18 different sizes and in different regions; and
19 (F) determine the extent to which afford-
20 ability affects the decision of a community to
21 increase public water system and treatment
22 works rates (including the decision relating to
23 the percentage by which those rates should be
24 increased).

1 (2) DISADVANTAGED COMMUNITIES.—The
2 study shall, at a minimum—

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

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

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

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

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

24 (c) SELECTION OF COMMUNITIES.—The Academy
25 shall select communities, the public water system and

1 treatment works rate structures of which are to be studied
2 under this section, that include a cross-section of commu-
3 nities representing various populations, income levels, de-
4 mographics, and geographical regions.

5 (d) USE OF RESULTS OF STUDY.—On receipt of the
6 results of the study, the Administrator shall—

7 (1) submit the study to Congress;

8 (2) submit a report that describes the results of
9 the study; and

10 (3) make the results available to treatment
11 works and public water systems for use by the pub-
12 licly owned treatment works and public water sys-
13 tems, on a voluntary basis, in determining whether
14 1 or more new approaches may be implemented at
15 facilities of the publicly owned treatment works and
16 public water systems.

17 (e) AUTHORIZATION OF APPROPRIATIONS.—There is
18 authorized to be appropriated to carry out this section
19 \$1,000,000 for each of fiscal years 2008 and 2009.

20 **SEC. 306. WATER MANAGEMENT STUDY.**

21 (a) IN GENERAL.—As soon as practicable after the
22 date of enactment of this Act, the Administrator shall
23 enter into an arrangement with the Academy under which
24 the Academy shall conduct a study, during the 26-month
25 period beginning on the date of enactment of this Act, of

1 innovative, effective, and systematic approaches for the
2 management of water supply, wastewater, and stormwater
3 in urban areas and surrounding communities (including
4 greenfield developments) in the United States and other
5 countries.

6 (b) REQUIREMENTS.—In carrying out the study
7 under this section, the Academy shall—

8 (1) pay particular attention to soft-path or low-
9 impact approaches to the management described in
10 subsection (a); and

11 (2) consider the costs of approaches that are
12 analyzed.

13 (c) FUNDING.—The Administrator shall provide to
14 the Academy a grant in the amount of \$1,000,000 for the
15 period of fiscal years 2009 through 2011 for use in car-
16 rying out the study under this section.

17 **SEC. 307. REDUCTION IN AUTHORIZATION OF APPROPRIA-**
18 **TIONS.**

19 Notwithstanding any other provision of this Act, each
20 amount authorized to be appropriated under this Act shall
21 be reduced by 2 percent.

Calendar No. 1092

110TH CONGRESS
2^D Session

S. 3617

[Report No. 110-509]

A BILL

To amend the Federal Water Pollution Control Act and the Safe Drinking Water Act to improve water and wastewater infrastructure in the United States.

SEPTEMBER 26 (legislative day, SEPTEMBER 17), 2008

Read twice and placed on the calendar