

The preamble was agreed to.  
(The resolution, with its preamble, is printed in today's RECORD under "Submitted Resolutions.")

#### RESERVATION OF LEADER TIME

The PRESIDING OFFICER. Under the previous order, the leadership time is reserved.

#### CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

#### DRINKING WATER AND WASTE-WATER INFRASTRUCTURE ACT OF 2021—Resumed

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of S. 914, which the clerk will report.

The senior assistant legislative clerk read as follows:

A bill (S. 914) to amend the Safe Drinking Water Act and the Federal Water Pollution

Control Act to reauthorize programs under those Acts, and for other purposes.

#### Pending:

Duckworth (for Carper/Capito) amendment No. 1460, in the nature of a substitute.

AMENDMENT NOS. 1471, AS MODIFIED; 1461; 1469; AND 1472 TO AMENDMENT NO. 1460

The PRESIDING OFFICER. Under the previous order, the following amendments are the only amendments in order to S. 914, which the clerk will report by number.

The senior assistant legislative clerk read as follows:

The Senator from Florida [Mr. RUBIO] proposes amendment numbered 1471, as modified, to amendment No. 1460.

The amendment, as modified, is as follows:

(Purpose: To modify a provision relating to allotments under the Federal Water Pollution Control Act)

At the end of section 210 (relating to clean water State revolving funds), add the following:

(c) FEDERAL WATER POLLUTION CONTROL ACT ALLOTMENTS.—Section 205 of the Federal Water Pollution Control Act (33 U.S.C. 1285) is amended—

(1) by striking the section designation and heading and all that follows through the end of subsection (a) and inserting the following:

#### "SEC. 205. ALLOTMENTS.

"(a) FISCAL YEARS 2022 AND THEREAFTER.—

"(1) DEFINITIONS.—In this subsection:

"(A) BUY AMERICAN OVERSIGHT.—The term 'Buy American oversight' means any activity carried out by the Administrator for the management or oversight of the requirements of section 608.

"(B) UNITED STATES TERRITORY.—The term 'United States territory' means—

"(i) American Samoa;

"(ii) the Commonwealth of the Northern Mariana Islands;

"(iii) the United States Virgin Islands; and

"(iv) Guam.

"(2) INITIAL ALLOTMENTS.—

"(A) IN GENERAL.—For each of fiscal years 2022 through 2026, of the amounts made available to carry out this section for the fiscal year, the Administrator shall provide for each of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, any other territory or possession of the United States, United States territories, Indian Tribes, and Buy American oversight an allotment equal to not less than the allotment described in the following table:

"Recipient	Allotment
Alabama .....	0.005
Alaska .....	0.005
Arizona .....	0.005
Arkansas .....	0.005
California .....	0.005
Colorado .....	0.005
Connecticut .....	0.005
Delaware .....	0.005
District of Columbia .....	0.005
Florida .....	0.005
Georgia .....	0.005
Hawaii .....	0.005
Idaho .....	0.005
Illinois .....	0.005
Indiana .....	0.005
Iowa .....	0.005
Kansas .....	0.005
Kentucky .....	0.005
Louisiana .....	0.005
Maine .....	0.005
Maryland .....	0.005
Massachusetts .....	0.005
Michigan .....	0.005
Minnesota .....	0.005
Mississippi .....	0.005
Missouri .....	0.005
Montana .....	0.005
Nebraska .....	0.005
Nevada .....	0.005
New Hampshire .....	0.005
New Jersey .....	0.005
New Mexico .....	0.005
New York .....	0.005
North Carolina .....	0.005
North Dakota .....	0.005
Ohio .....	0.005
Oklahoma .....	0.005
Oregon .....	0.005
Pennsylvania .....	0.005
Puerto Rico .....	0.005
Rhode Island .....	0.005
South Carolina .....	0.005
South Dakota .....	0.005
Tennessee .....	0.005
Texas .....	0.005
Utah .....	0.005

<b>“Recipient</b>	<b>Allotment</b>
Vermont .....	0.005
United States territories .....	0.015
Virginia .....	0.005
Washington .....	0.005
West Virginia .....	0.005
Wisconsin .....	0.005
Wyoming .....	0.005
Indian Tribes .....	0.0025
Buy American oversight .....	0.001.

“(B) ADDITIONAL ALLOTMENTS TO STATES, DISTRICT OF COLUMBIA, AND PUERTO RICO.—Notwithstanding any other provision of this section, for each of fiscal years 2022 through 2026, of the amounts made available to carry out this section for the fiscal year remaining after all allotments under subparagraph (A) are provided for that fiscal year, the Administrator shall provide an additional allotment to each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico in an amount based on the proportion that, as determined in the most recently published annual estimate of the Bureau of the Census—

“(i) the population of the State, District of Columbia, or Commonwealth of Puerto Rico, respectively; bears to

“(ii) the total population of all States, the District of Columbia, and the Commonwealth of Puerto Rico.

The Senator from New Hampshire [Mrs. SHAHEEN] proposes an amendment numbered 1461 to amendment No. 1460.

The amendment is as follows:

(Purpose: To expand the eligibility under the State response to contaminants program)

At the appropriate place in title I, insert the following:

#### **SEC. 1. STATE RESPONSE TO CONTAMINANTS.**

Section 1459A(j)(1) of the Safe Drinking Water Act (42 U.S.C. 300j-19a(j)(1)) is amended—

(1) in the matter preceding subparagraph (A), by striking “an underserved community” and inserting “a community described in subsection (c)(2)”; and

(2) in subparagraph (A)(i), by striking “such underserved” and inserting “that”.

The Senator from Louisiana [Mr. KENNEDY] proposes amendment numbered 1469 to amendment No. 1460.

The amendment is as follows:

(Purpose: To require the Administrator of the Environmental Protection Agency to carry out an annual study on the prevalence of boil water advisories)

At the appropriate place, insert the following:

#### **SEC. . ANNUAL STUDY ON BOIL WATER ADVISORIES.**

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, and annually thereafter, the Administrator shall conduct a study on the prevalence of boil water advisories issued in the United States.

(b) REPORT.—

(1) IN GENERAL.—The Administrator shall submit to Congress a report describing the results of the most recent study conducted under subsection (a) as part of the annual budget request transmitted to Congress under section 1105(a) of title 31, United States Code.

(2) REQUIREMENT.—In the annual report required under paragraph (1), the Administrator shall include a description of the reasons for which boil water advisories were issued during the year covered by the report.

The Senator from Utah [Mr. LEE] proposes amendment numbered 1472 to amendment No. 1460.

The amendment is as follows:

(Purpose: To limit the authority to reserve water rights in designating a national monument)

At the end, add the following:

#### **TITLE III—MISCELLANEOUS**

#### **SEC. 301. RESERVATION OF WATER RIGHTS AT NATIONAL MONUMENTS.**

Section 320301 of title 54, United States Code, is amended by adding at the end the following:

“(e) WATER RIGHTS.—

“(1) NO RESERVATION OF WATER RIGHTS.—In designating a national monument under subsection (a), the President may not reserve any implied or expressed water rights associated with the national monument.

“(2) APPLICABLE LAW.—Water rights associated with a national monument designated under subsection (a) may be acquired for the national monument only in accordance with the laws of the State in which the water rights are located.”.

The PRESIDING OFFICER. The Senator from Delaware.

S. 914

Mr. CARPER. Madam President, the Senator is now considering S. 914, the Drinking Water and Wastewater Infrastructure Act of 2021. This legislation was reported unanimously last month by the Committee on Environment and Public Works on a vote of 20 to 0.

I rise today to join Senator CAPITO to urge our colleagues to join us in voting for the adoption of this legislation. The legislation will help upgrade our Nation’s drinking water and wastewater infrastructure—investments that are sorely needed.

So that our colleagues understand the real need for drinking water and wastewater investments, let me just begin today by sharing a bit of my own personal history on these issues and invite our colleagues to maybe recall a bit of their own history.

My sister Sheila and I were born in Beckley, WV, a coal mining town in the southern part of the State. For 2 of the 6 years that our family resided in the Mountain State, we lived outside of Beckley, a coal mining town, and we lived alongside a stream known as Beaver Creek. We lived outside of Beckley by a couple of miles.

Sometimes, my sister and I, along with other kids in our tiny community, would play on the banks of Beaver Creek, chasing frogs, trying to catch the small fish that swam there. We were never allowed to eat fish caught

in Beaver Creek, though, and our neighbors didn’t eat them either. Why? Because we were told in no uncertain terms by our parents that it wasn’t safe to eat those fish.

In time, we learned some of the reasons why it wasn’t safe. Some of the septic tanks that nearby residents relied upon were not well maintained, and as a result, raw sewage and other pollution would sometimes end up seeping into Beaver Creek.

My sister Sheila and I would go on to grow up in Danville, VA, located right along the border with North Carolina. Danville, VA, had once been the last capital of the Confederacy. By the time we got there, it had become the home of Dan River Cotton Mills, as well as the world’s biggest tobacco market. Even our radio station was WBTV, World’s Biggest Tobacco Market. We lived in what I suppose was a middle-class neighborhood just outside of town, and we drank water from a well in our own backyard that was located less than 100 feet from our septic tank.

My senior year in high school, I was fortunate enough to win a Navy ROTC scholarship and attended Ohio State University. There, in Columbus, OH, we drank water provided by the city of Columbus, which also treated the sewage of the city’s close to half a million inhabitants.

Several years after graduating from Ohio State in 1968 and while deployed to Southeast Asia as a naval flight officer fighting during the Vietnam war, I would learn that the Cuyahoga River, which flowed through Cleveland, OH, had actually caught on fire. I dubbed it “the fire heard around the world.” It served as a wake-up call to our Nation to get serious and begin addressing the air and water pollution that were all too prevalent in much of our country.

Spurred by this wake-up call, our President at the time, Richard Nixon, by Executive order and affirmed by the Congress, created the Environmental Protection Agency in 1970.

Inspired in part by the burning Cuyahoga River and outrage at the indiscriminate dumping of pollution into rivers, streams, and wetlands around this country, Congress enacted the Clean Water Act in 1972 over the veto of then-President Richard Nixon.

The goals of the Clean Water Act are at the same time simple and profound. These are the words: to “restore and maintain the chemical, physical, and biological integrity of the Nation’s waters.”

Let me repeat this: to “restore and maintain the chemical, physical, and biological integrity of the Nation’s waters.”

In the Clean Water Act, Congress ambitiously declared that the waters of the United States would be fishable and swimmable by 1983 and that there would be no more pollution discharged into our waters by 1985.

Two years later, in 1974, then-President Gerald Ford signed the Safe Drinking Water Act into law.

In the years that followed, cities and communities across our country applied to EPA for grant funding to help build new drinking water systems and improve existing ones. Similarly, with the help of EPA grants, communities across America built or upgraded wastewater treatment systems to clean up the wastewater being discharged into rivers and streams.

Over time, grant requests greatly exceeded the funding available through EPA grants. During the Reagan administration, a controversial new approach was proposed—the creation of revolving loan funds administered and managed by each State. After considerable debate and compromise, this proposal was enacted into law. I was serving in the House of Representatives at the time and ended up supporting that proposal. Thus, the concept of State revolving funds was born in 1987. The Clean Water Program was an alternative financing mechanism for the construction of wastewater facilities. Congress extended the same revolving loan fund concept to Federal drinking water programs in 1996.

Federal funds seeded revolving funds in all 50 States and in Puerto Rico and provided support for projects in the other territories and in the District of Columbia, right here. This Federal support leveraged State and local funding, along with revenues generated by utilities.

In the years immediately following the creation of these funds, Congress periodically modified them to meet the changing needs in cities and communities across our country and inspire the use of new technologies.

In more recent years, however, the programs languished, and the authorizations for the State revolving funds were in dire need of updating.

In 2018, for the first time in 22 years—22 years—Congress reauthorized the Drinking Water State Revolving Fund. It did so for 3 years. The Clean Water State Revolving Loan Fund, used for wastewater and other vital needs, has not been reauthorized in nearly—get this—35 years, and now the Drinking Water State Revolving Fund is set to expire at the end of this year.

Somebody should do something, and that somebody is us. Needless to say, we have fallen woefully short of Congress’s lofty ambitions to create fishable and swimmable waters by 1983 and to eliminate the discharge of pollution in navigable waters by 1985. It is also clear that the system we have

now, despite our best efforts, isn’t enough to meet the needs of our communities, particularly those who cannot afford to participate in loan programs to upgrade increasingly inadequate drinking water and wastewater facilities.

For far too many families in this Nation, access to safe, clean drinking water and a healthy environment is, frankly, a dream, just a dream, and a lot of folks, too many folks, face a real crisis.

All too often, we see headlines telling of the poor state of water infrastructure in our country and its lack of resilience in the face of severe weather. Not that long ago in Texas, earlier this year, nearly 15 million people—15 million people—lost access to clean water when plummeting temperatures broke water mains and brought power down at drinking water facilities across that State. In Jackson, MS, that same harsh weather caused over 80 water main breaks and left tens of thousands of people without water, particularly in predominantly African-American neighborhoods.

But, as we all know, this goes well beyond a few isolated cases. The problem of water in our Nation runs much deeper. Millions of Americans still lack consistent access to clean drinking water today.

The American Society of Civil Engineers’ 2021 report this year reported that America’s infrastructure—they give out grades: A, B, C, D, E, F. They gave our water systems a grade of C-minus.

I don’t know about my colleagues, but I never got much of a pat on the back when I brought home a C-minus on my report card, and neither did my sister. C-minus is not satisfactory in my family or, I think, for our country.

That same report early this year also revealed that there is a water main break every 2 minutes—every 2 minutes—in the United States and that 6 billion gallons of treated, drinkable water are lost each day to leaks and crumbling water supply systems. That begs the question: How much is 6 billion gallons, anyway? Well, it is enough lost water to fill 9,000 swimming pools. Let me repeat that. It is enough water to fill 9,000 swimming pools—not each year, not each month, not each week—every day. Some communities report losing a quarter or even half of their drinking water to leaking pipes.

In my own State of Delaware, where Senator COONS and I come from, communities like Ellendale, DE, in the southern part of our State, struggled for years to find and afford safe alternatives for increasingly polluted drinking water wells. Ellendale is not alone. Thousands in communities of color and Tribal communities, rural communities, and others struggle, not only with access to clean water and wastewater treatment, but also with the capacity to afford the infrastructure necessary to provide and meet those services.

Let me emphasize: Clean water is an essential part of our healthy lives, healthy economics, and a healthy environment. But for those communities who simply cannot afford to pay back loans for needed water infrastructure, we have to find a better way.

I think by working across the aisle and working hard, our committee—the Environment and Public Works Committee—is suggesting that by way of this legislation before us today.

I am pleased to report that these are the challenges that we have sought to address head-on with this legislation. This bipartisan legislation that we consider today authorizes more than \$35 billion for drinking water and wastewater infrastructure programs at the Environmental Protection Agency over the next 5 years. These programs will create jobs and make our communities healthier by building, by repairing, by upgrading, and by modernizing our Nation’s aging drinking water and wastewater infrastructure systems.

Here is how.

First, the measure takes the historic step of reauthorizing the Clean Water State Revolving Fund for the first time in 35 years—35 years. And it does so by increased funding levels for the first time since 1987. This legislation also reauthorizes the Drinking Water State Revolving Fund, a program whose authorization expires, I mentioned earlier, at the end of this year. This fund helps to ensure that clean water flows whenever we turn on our faucet—that clean water comes out of it.

Next, this bill makes sure we are helping our fellow Americans most in need—the least of these, the most in need—by boosting funding for programs that fund projects in low-income areas, rural communities and Tribal lands, and communities of color that have historically been left behind by investments in our water infrastructure. According to a recent analysis, water systems with multiyear Safe Drinking Water Act violations are 40 percent more likely to be in places with higher proportions of people of color. Drinking water quality violations are by far the most frequent in low-income rural communities, where local governments struggle to finance the most basic water infrastructure needs.

To help resolve this historic injustice, more than 40 percent of this bill’s investments are targeted to help disadvantaged communities. Our bill authorizes more than a billion in new funding to reduce lead in drinking water. And particularly for our country’s rural areas, Tribal populations and low-income neighborhoods, our bill invests another billion into programs to connect households to drinking water and wastewater systems and services.

Wide disparities in opportunity and investment are also present in Tribal communities. Our legislation grows the Tribal Drinking Water Program by 20 percent and reforms programs to help

Tribal education agencies remove lead from their drinking water systems, too.

This legislation does far more than just fix what is broken. To borrow a phrase from our President, Joe Biden, this legislation actually does “build back better” by fortifying water infrastructure for new and worsening climate realities.

I will be honest with you, Madam President and colleagues. In this country, ours is a future that promises more severe weather events like hurricanes, like floods, droughts, and bitterly cold weather. It is a future, like it or not, with more and more people living on the frontlines of sea level rise, like my home State of Delaware, the lowest lying State in our Nation.

To that end, the bill provides a combined \$500 million to make our water infrastructure systems more resilient and adaptable in the face of extreme weather events. Within that historic investment is a new \$125 million program which will, for the first time, provide grants to communities seeking to fortify their wastewater systems against climate change's impact.

Finally, with our eyes focused on the future, our bill expands government's role in researching and developing the water technologies for tomorrow, by investing in technologies to improve, for example, storm water control and waste management. By doing so, we can help American companies export innovation while not exporting jobs, rather by creating them right here. This is not just a bill to spend and build on but legislation that would direct our Agencies to build and spend more wisely. We know that investment in innovation, as envisioned in the bill before us, can have a profound positive impact on our economy, creating jobs and fostering growth for our entire Nation. We can, in short, seize the opportunity in the face of so much adversity. As we say in Delaware, “Carpe diem. Seize the day.” Actually, we say: “Carpe diem. Seize the day.”

There is an old African proverb that comes to mind that goes something like this: If you want to go fast, travel alone. If you want to go far, travel together. On this bill, I can proudly say Senator CAPITO and our colleagues on the Environment and Public Works Committee have chosen to travel together. The Drinking Water and Wastewater Infrastructure Act of 2021 passed out of the Environment and Public Works Committee with a resounding vote of 20 to 0.

And from outside the Halls of Congress, this bill has earned praise from across the political spectrum, from big cities to small communities. A group of government officials that includes the U.S. Conference of Mayors wrote that this measure will “help address the many water infrastructure challenges that communities face. Local leaders support the Drinking Water and Wastewater Infrastructure Act as a reliable, long-term and increased federal investment in water infrastructure.”

Representing our less-populated areas of the country, there are places like Raleigh County in West Virginia. Raleigh County is where I was born, where my sister and I were born. Senator CAPITO knows it well. Senator MANCHIN knows it well. His wife is from there. Representing places like Sussex County in southern Delaware, the Rural Community Assistance Partnership says this about our legislation: “Proud to support this bill because Americans deserve clean, safe, reliable, and affordable drinking water, regardless of the community's size or zip code.” I could not agree more.

We know that access to safe, reliable and healthful water isn't a blue State or red State issue. It is an issue that goes to the core of the promise afforded to every American in Thomas Jefferson's Declaration of Independence—largely penned by Thomas Jefferson—with these words: a promise of “Life, Liberty, and the pursuit of Happiness.” If we would be honest with ourselves, none of us can expect to pursue, much less enjoy, this American ideal if we don't have access to clean water to drink, because without water we have no life.

The need for action on this issue is clear. To that end, I have been grateful to the partnership of our ranking member, Senator CAPITO. I am proud this measure is the very first piece of infrastructure legislation, I believe, to be reported out of a Senate committee in this the 117th Congress. The Environmental and Public Works Committee has a long tradition, as some know, for working across the aisle to get significant legislation over the finish line. This bill is the latest example of the kind of work that we do.

I would like to say we are work horses, not show horses.

This is the first one that Senator CAPITO and I have been able to work on together, and I am grateful for all that she and her staff have done to help get us here to this day. I oftentimes say that bipartisan solutions are lasting solutions. Think about that: Bipartisan solutions are lasting solutions. That is how I think we should approach almost all of our work here in the Senate—by reaching out to our colleagues across the aisle, where we can, creating lasting solutions to problems and challenges facing our Nation. This bill before us today is a product of that kind of partnership.

The legislation is the result of tireless, dedicated work by the ranking member, Senator CAPITO, by her staff, and by my own. I want to thank them and every member of our committee for all their outstanding, bipartisan work and for all their contributions to helping us craft this legislation over the last several months.

I especially want to note on my staff: John Kane, sitting behind me; Margaret McIntosh, known as “Mackie”; Tyler Hofmann-Reardon; and our fearless staff director, Mary Frances Repko. And I want to thank another

member of our team, who used to be a part of our EPW team and is now leaving our staff. This is her last day—Ashley Morgan. We want to thank her for all her help in the last couple of years. I also want to thank Adam Tomlinson for his leadership with Ranking Member CAPITO and her EPW team, including Jess Kramer and Travis Cone. We thank them all very, very much.

Finally, a big shout out to our Water Subcommittee chair, Senator DUCKWORTH, for taking the lead to introduce this excellent measure, along with Senator CARDIN and EPW subcommittee ranking members, Senator LUMMIS of Wyoming and Senator CRAMER. It has been a pleasure to work with each of you and your staffs. I would go so far as to say that it was a labor of love.

With this bill's level of support, it is my hope that we can seize this momentum and pass this measure quickly this week. I urge all my colleagues to join Senator CAPITO and me in supporting this excellent bill.

Before I yield the floor, I want to reflect on last night and the address that was brought to us by our President from Delaware, Joe Biden, a long-time friend and colleague. I was encouraged by his remarks. He is not a very partisan person, and I think he reached out a hand of friendship to the other side of the aisle, in both the House and the Senate, to try to work together.

I am a retired Navy captain, a Vietnam veteran, and a big believer in leadership by example. In our committee, the Environmental and Public Works Committee, Democrats and Republicans—Senator CAPITO and, before that, JOHN BARRASSO; before that, Barbara Boxer and, gosh, JIM INHOFE, as chairs of our committee—we have sought to provide bipartisan leadership and show by example, and we are trying to do that again here today.

My hope is that, God willing, about a month from now, we will bring another bill up for a vote for debate in our committee on surface transportation, roads, highways, and bridges, and maybe continue to set a good example for this body and for the administration and the House, too.

With that in mind, I am looking for Senator CAPITO. I don't see her on the floor, but I do see the whip, my friend Senator THUNE. I think maybe I should yield to him.

I should tell you guys that Senator THUNE and I, almost every Thursday, are joined with the Chaplain of the U.S. Senate, Barry Black, a retired admiral who is Chaplain of the Senate now. He is good enough to host a Bible study in his office space. We usually end up sitting there. It is one of my favorite parts of the week.

Almost every week he reminds us of Matthew 25. Senator THUNE knows the Bible better than most pastors. It is true. Senate Chaplain Barry Black will oftentimes remind us of Matthew 25. It starts like this: “When I was thirsty, you would give me to drink.”

We have, I think, a moral imperative to act on this legislation, to make it better, and to be able to hammer out a compromise with the House and the administration. There is a moral imperative to pass legislation of this nature.

There is also a fiscal imperative. I spoke about filling up how many thousands of swimming pools from one water leakage a day.

There is a health imperative here in the middle of the worst health crisis in 200 years.

There is an economic imperative, as well. It is hard to foster economic growth and development in communities where wastewater is not treated and there is drinking water you can't drink. Who wants to set up a business and go into business in places like that?

There are a lot of reasons we need to embrace this legislation, make it better if we can, and send it off to the House and get it to conference.

We have been joined by a new Presiding Officer. He has just joined us straight from New Jersey. For many years, he, Senator BOOKER, has joined us in our Bible study. He, Senator DUCKWORTH, and I formed a caucus that is designed to make sure we don't overlook the least of these, and I salute him for his leadership and good work in that regard.

With that, I see Senator CAPITO here. I am not sure if I should yield to the whip, Senator THUNE, or yield to her.

I yield the floor.

The PRESIDING OFFICER (Mr. BOOKER). The Senator from South Dakota.

Mr. THUNE. Mr. President, I would echo what my colleague from Delaware has said about the Chaplain's Bible study on a weekly basis. That, I think, is the highlight for many of us throughout the week.

I would also say that the Senator from Delaware also has a very good command of the Holy Scriptures, and I appreciate the opportunity that he and I and others have, on a weekly basis, to participate in that study and would encourage other Members to join us. It is truly an inspirational time and is something that, I think, we all need with the busyness that we have on a weekly basis here in the Senate.

(The remarks of Senator THUNE pertaining to the introduction of S. 1458 and S. 1475 are printed in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. THUNE. I yield the floor.

The PRESIDING OFFICER. The Senator from Utah.

#### STATE WATER RIGHTS AMENDMENT

Mr. LEE. Mr. President, water is one of our most precious resources, and it is vital to life. It is necessary for agriculture, industry, recreation, conservation, the development and growth of cities, and so many aspects of our day-to-day lives. Unfortunately, for States like Utah—States with a lot of Federal land and States that are dry in many areas—our supply for this critical re-

source, water, is threatened under the Antiquities Act.

Why is this the case? Well, let's review the background.

Back in 1908, the Supreme Court concluded that, when the Federal Government reserves land for an Indian reservation, it also implicitly reserves sufficient water on that land to fulfill the purposes of the reservation, creating the "Federal reserved water rights" doctrine. In later cases, the Court expanded that doctrine to apply to other Federal properties—other Federal properties like national forests and recreation areas.

Then, in 1976, the Supreme Court held that the doctrine applied to national monuments created by the President. In other words, it affirmed the President's authority unilaterally to change the legal water rights within a State simply by designating a monument under the Antiquities Act.

Now, under the Antiquities Act, the President has the authority and the discretion to create a monument, as long as there is Federal land. So it makes a State like mine, 67 percent of which is owned by the Federal Government, a sitting duck for abuse.

Now, we have talked about Antiquities Act abuses in other contexts. Here, I am focusing in on a very narrow ramification of Antiquities Act abuse, which relates to water rights. It is only that narrow ramification that I am trying to address with this amendment.

Monument designations can be and often are made without the approval of the State and its inhabitants. And, unfortunately, in recent years, these designations have grown rather significantly in size and in scope.

The result for public land States, like Utah, is involved in access and use to the water supply being significantly curtailed. In some cases, privately held water rights are even terminated altogether, and it opens up the door to even greater abuse under the Antiquities Act down the road.

Imagine for a moment if a proposal for a national monument were designated in just one river basin, such as the Grand Canyon. In order to preserve the flow of water on the Colorado River through the Grand Canyon, water rights—legally established, longstanding, long-established water rights—could be eliminated, completely eliminated in Colorado, in Utah, in Arizona, in Nevada, in California through the stroke of the executive pen.

A reservation of water could reduce or eliminate drinking water for communities across the West. It could eliminate irrigation water for almonds or grapes in California or Sudan grass in Utah. The perils are endless.

That is why I am introducing an amendment that would prevent the President from unilaterally creating reserved water rights when designating a national monument.

Now, it is important for me to mention—now that I have explained what

this amendment would do, I want to talk about what it would not do.

My amendment would not prevent the President from creating a national monument itself. And, furthermore, it would still allow for water rights to be acquired for a monument through the State system in which the water rights themselves reside.

It would simply and fairly give States a say in the process, regardless of how you feel about national monuments or about the Antiquities Act. I have made clear in the past I have got grave concerns with the Antiquities Act, and I believe it needs to be repealed. This bill does not do that. This bill simply cabins off water rights and says that water rights need to be handled through the legal process to which they would otherwise be handled, to which they would otherwise be subjected.

This is a simple, commonsense solution to ensure that Utah and other States where there is a lot of Federal public land are guaranteed the protection of their existing water rights and a reliable water supply. It would be easy to dismiss or denigrate or downplay the importance of this if you live in a State where there is not much Federal land. But if you live in a State like mine, where most of the land is owned by the Federal Government, you can understand how quickly this could become destructive, if abused, and that is exactly why we need this amendment.

I urge all my colleagues to support it.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. CARPER. Mr. President, my neighbor, I want to take a few minutes this morning—additional minutes this morning—to discuss the water issues facing rural America, and the Presiding Officer comes from the Garden State, and a lot of people who have heard Senator COONS and me talk about our State think of us as the poultry State. We think, for about every person who lives in Delaware, we have got about 300 chickens. We raise a lot of the corn and soybeans to feed those chickens. So almost every State is a rural State in one way or the other.

But the issues facing rural America often do not get the same level of attention or assistance with drinking water and wastewater programs that larger, more urban or suburban areas receive.

As our Committee on Environment and Public Works was drafting the Drinking Water and Wastewater Infrastructure Act of 2021, the legislation before us today, many of us focused on the need to invest in small, rural, and disadvantaged communities because they often—to be honest with you, often get left behind.

These communities are overlooked or overburdened when it comes to addressing the drinking water and wastewater needs of their residents too often.

Most of our country's drinking water and wastewater utilities are small. Approximately, 80 percent of the country's almost 17,000 wastewater utilities serve a population of fewer than 10,000 people. More than 90 percent of the country's 43,000 community water systems serve a population of fewer than 10,000 people.

Small and rural communities have more difficulty affording public water service. These communities lack the population density needed to financially support a public drinking water system, and if they have managed to build a system, they often lack the people to properly staff it.

In fact—I was shocked to hear this, but 43 percent of small water systems are operated and staffed by one person, by one single person. Forty-three percent of small water systems are operated and staffed by one person.

These rural towns' and villages' drinking systems face the same challenges as large systems, larger systems, in making sure that water is safe, making sure the water is clean, making sure that the water is reliable.

Complicating matters, these communities have to do it with far fewer resources, in many instances.

I want to share just a couple of examples of challenges facing these communities just from my own home State, and I am sure every Member of this body can provide examples in their own States.

For example, there is a town called Selbyville. It is right on the Delaware-Maryland line, not too far from Rehoboth Beach and Dewey and Bethany Beaches. But Selbyville is currently operating without a fully licensed water treatment operator due to the death of a longtime operator who passed away after a long battle with cancer. The only other licensed operator for the town is currently out on disability, and the remaining two operators are not fully licensed.

Through the Technical Assistance Program that this bill would reauthorize, the town has been able to obtain the required training to prepare the two partially licensed operators for the State licensing exam.

This program has helped to train these individuals in areas like disinfection control, filtration, provide the on-site technical assistance for leak detection and hydrant maintenance.

Another example, the Pepper Ridge Mobile Park in Frankford, DE—not too far away—suffered many years of waterline breakage, low water pressure, no hydrants, valves, levers, and inadequate distribution lines.

The Delaware Rural Water Association, through our State revolving fund, was able to obtain funds to do a full water line upgrade.

And incidentally, we will also reauthorize this program at an increased level of funding.

This legislation before us today specifically helps rural and smalltown America by reauthorizing critical pro-

grams like the ones I just mentioned in my own State and by adjusting the cost share for these communities to make these infrastructure upgrades more affordable to ratepayers.

Passing this legislation will be an important step toward addressing the overwhelming infrastructure needs of 43,000 water systems in rural communities, many of which have one person operating that system.

According to the most recent EPA drinking water infrastructure assessment, rural drinking water needs are currently estimated at \$74 billion over the next 20 years, including \$3.3 billion just for Indian Country.

To help rural communities, this bill expands drinking water technical assistance opportunities for rural communities by authorizing more than \$75 million in technical assistance grants.

We have been joined on the floor by the prime author of this legislation, the Senator from Illinois, and I am just going to stop where I am in my discourse on rural American water needs of a lot of our rural communities and to yield the floor, unless Senator CAPITO—no. Senator DUCKWORTH.

I just want to thank Senator DUCKWORTH for being the prime sponsor of this legislation, for allowing the rest of us—we have a big racetrack, Dover Downs NASCAR track, we use the term “drafting,” when one car gets really close behind the other and kind of holds on, but we want to thank Senator DUCKWORTH for allowing the rest of us to draft on her legislation that she and Senator LUMMIS from Wyoming have introduced, and we are grateful for her leadership.

I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois.

Ms. DUCKWORTH. Mr. President, I remember sitting in a House Oversight Committee hearing years ago on the Flint water crisis. At the time, my oldest daughter Abigail was just a year old.

I remember looking out into the audience and seeing just a hand holding a baby bottle up from the middle of a crowd in that hearing room. That baby bottle looked exactly like the one that my own baby drank out of. It was a little bottle with a pink top.

But unlike my daughter's bottle, the water in this one was brown, a muddy, murky brown.

I couldn't, and all these years later I still can't, begin to imagine what it would have been like to have to drink that water while I was pregnant or to have no choice but to give it to my baby because the system that I trusted to provide my family with clean, safe drinking water had failed me.

But that kind of nightmare remains the everyday reality for far, far too many parents across this country.

It has been 7 years since the leaders of the city of Flint tried to save a few dollars by swapping out its drinking water supply from Detroit's system to the Flint River, setting off a chain of

events that poisoned nearly 9,000 kids in just 18 months.

But the damage inflicted on that community will never go away, and while Flint was a tragedy, it was not an anomaly. According to both the EPA and CDC, there is no known safe level of lead in a child's blood. Yet more than 6 million homes continue to get water from lead service lines, including in my own home State of Illinois, which has more known lead service lines than any other State in the country.

And despite lead service lines being banned nearly 35 years ago, as of 2019, roughly half a million children under the age of 6 still had elevated levels of lead in their blood—something that can cause permanent brain damage.

And lead is just one of the many issues that communities struggle with every day due to our outdated and dilapidated water systems.

But instead of working to address these known issues, the Federal Government's share of capital spending in the water sector fell from 63 percent in 1977 to a meager 9 percent in 2017.

And now, our dwindling Federal and State investments into our water infrastructure are allowing countless Americans to be exposed to pollutants, whether it is from taking a sip from their kitchen faucets or even just living near an outdated stormwater system.

Part of the problem with water infrastructure is that it is expensive and no one sees it—out of sight, out of mind. But that only lasts until there is a major problem, like in Texas, where over 15 million people were temporarily left without access to clean water.

Well, we have to stop waiting for our infrastructure to fail before we invest in it. We cannot wait around for another crisis to sicken our families before we decide to put real State and Federal dollars into rebuilding our drinking water and wastewater systems.

Imagine if your child was one of those who had gotten sick because legislators refused to take action on such an obvious crisis. Imagine if you had to be the one to get your newborn to sip on water too opaque to see through.

We should not let even one more parent suffer through that worst-case scenario. Access to clean water is a human right, and every American deserves access to clean water, no matter their ZIP Code, the color of their skin, or the size of their income.

It is long, long past time that we turn that right into a reality by investing in the kinds of projects that would put Americans back to work rebuilding our crumbling water infrastructure. We must dramatically increase Federal investments to provide every family access to the most basic human needs—clean water.

That is one reason why I introduced the Drinking Water and Wastewater Infrastructure Act of 2021. If our Nation

truly wants to build back better, we can't only pour money into fixing our roads while failing to repair the pipes beneath them.

Because water infrastructure is infrastructure, everyone needs it in every corner of this country.

My bipartisan bill would invest significant Federal dollars to help States, communities, and schools fix and upgrade aging water systems to improve water quality, while fostering economic growth throughout the country.

Our legislation seeks to reauthorize and enhance State revolving loan funds, which are the most effective tools we have to provide States with Federal investments that empower local leaders to modernize water systems, implement lead reduction projects, and rebuild stormwater overflow infrastructure.

Our bill would also continue getting shovels into the ground and support quality jobs by reauthorizing the WIFIA financing program, an initiative that already helped finance nearly \$20 billion for water infrastructure projects and created 49,000 jobs in just under 7 years.

It would provide more than \$700 million in lead testing and reduction programs, in part through a program very close to my heart, the voluntary lead testing in schools and childcare facilities program, expanding it to go beyond testing to include lead reduction.

Of course, it is not sufficient to simply increase investment levels—we must enact policies that effectively distribute critical dollars in a fair and just manner that prioritizes the most vulnerable Americans, and the most pressing public health and safety needs.

That is why my bipartisan legislation prioritizes environmental justice by providing direct help to small, disadvantaged, rural and tribal communities that have been ignored for far too long.

By lowering non-Federal cost-shares, creating new grants and allowing for debt forgiveness, we can help communities that typically struggle to afford traditional loans. This includes Centerville, IL, a community that needs resources to kick start projects that will rebuild their catastrophically failing systems that allow sewage to seep into my constituents' homes whenever it rains.

Look, we must face the awful reality that a community's racial and economic composition are the top predictors of waste facility locations—and we should be outraged that these environmental justice communities are often neglected in favor of wealthy areas that are home to rate payers that can cover the cost of safe water.

Congress cannot abandon American communities simply because they cannot afford to update their water infrastructure . . . especially when we know that the Federal Government failed to prevent this crisis from happening.

Concerns about the health effects of lead pipes date back all the way back

to the late 1800's—yet Congress didn't ban the use of lead service lines until 1986! And even then, the Federal Government allowed lead pipes already in the ground to remain . . . forcing too many of our communities to essentially drink through a "lead straw" to this very day.

We helped create this problem. Now, it's on us to help fix it.

Our mission lies right before us: work together to protect the health of our most vulnerable neighbors and achieve a reality where: no elementary-schooler is scared to use their school's drinking fountain;

no parent questions whether it's safe to give their child a glass of water before bedtime; and

no family comes to expect that their house will be flooded by sewage every time it rains.

At the end of the day, it's simple the condition of our water infrastructure is a crisis. It is a crisis that is daunting, yes, and devastating, certainly—yet it's a crisis that is solvable. Every dollar we spend improving our water systems can help save the health of our future generations. And that is why I hope my colleagues will join me in voting yes on the Drinking Water and Wastewater Infrastructure Act of 2021.

AMENDMENT NO. 1471, AS MODIFIED, TO  
AMENDMENT NO. 1460

The PRESIDING OFFICER. Under the previous order, there will be 2 minutes for remarks equally divided prior to a vote on amendment No. 1471, as modified.

The Senator from Florida.

Mr. RUBIO. Mr. President, this amendment No. 1471 is our amendment, and it would modernize the formula by which this money is distributed.

This formula is 34 years old. It privileges a handful of States over the vast majority—I think the number is 15 over the other 35. And it is not just me saying it; the EPA issued a report that stated that the current formula does not meet the wastewater needs of all of the States and recommended that it be updated regularly. Notably, from the EPA's report, it says that the EPA does not know how the current allotment formula was developed. It says:

The weighting and factors that were used to establish the formula for the original allotment are not known.

My home State of Florida is one of many that are disadvantaged under the current formula, and the result has been obvious over the years.

I think most of my colleagues would agree that distributing funds—let alone \$14.4 billion—to States without rhyme or reason is not beneficial and isn't fair.

It is not just States, by the way. This amendment, if passed, would secure more equitable allotments to Native American Tribes and territories.

Unfortunately, I made—in our drafting of this amendment, there was a small technical error in which, instead of stating that it should be 0.025 in the distribution for Native American Tribes, it says .0025.

So I ask unanimous consent to further modify amendment No. 1471 with the changes that are at the desk so that the right number is on there.

The PRESIDING OFFICER. Is there objection?

The Senator from Delaware.

Mr. CARPER. Reserving the right to object, I cannot agree to this unanimous consent request because this is the exact reason why we don't amend complicated formulas on the floor with limited oversight.

This bill was hotlined last night, I think, with the current language from Senator RUBIO, and now he would like to change it here literally at the last moment. With all due respect, I just cannot agree to that.

I said to him in a conversation on the floor that I think he knows me well enough that I am willing to work with him and others who would like to see some modifications in this formula going forward. This is not the end of the trail. We will have a conference with the House. We will have negotiations with the White House.

I just want to say to Senator RUBIO that I look forward to working with him and Senator CAPITO to consider the changes that he is proposing but not to do it at the last minute here on the floor. I am unable to do that.

I reluctantly object, but I am going to have to do that. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. RUBIO. Mr. President, in my remaining time—

The PRESIDING OFFICER. The Senator has no time remaining.

Mr. RUBIO. I ask unanimous consent for an additional 30 seconds.

The PRESIDING OFFICER. Is there objection?

Without objection.

Mr. RUBIO. Mr. President, I just want to state that we are not changing the formula. There is an extra zero, and it is literally a typo, the kind of typo people make every single day in the Senate. Instead of saying ".025," it says ".0025." Everyone knows what it was intended to do. That is the way we talked about it. That has been objected to. The Senate is now a place where you cannot amend a typo by unanimous consent. That is unbelievable. It is unreal. I, frankly, find it unacceptable.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. CARPER. Mr. President, our committee has worked on this legislation all year. We have had hearings. We have had meetings, discussions at the staff level and Member level to try to come to an agreement on all kinds of provisions to the bill, and we are prepared to do more of that once this legislation is adopted.

But we reported this bill unanimously because it will benefit citizens across our Nation, better ensuring that, no matter where they live, they will have access to clean and safe water.

Our bill ensures that every State, territory, and Tribe will receive more funding to make critical investments in clean water projects. But by proposing a formula that only takes population growth into account—only takes population growth into account—Senator RUBIO and Senator SCOTT's amendment will ensure that many States, including rural States, territories, and Indian Tribes, will lose water infrastructure funding, in some cases as much as 80 percent.

We cannot afford to take money away from these governments when their needs are so great, especially in communities that have historically been underfunded and underserved. That is why more than 50 different organizations, from the U.S. Chamber of Commerce to the League of Conservation Voters and a whole lot of others in between, oppose this amendment.

As a result, I ask unanimous consent to have printed in the RECORD a list of those organizations—a growing list of those organizations.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

## ORGANIZATION

AFL-CIO,  
Advocates for a Clean Lake Erie,  
Alliance for the Great Lakes,  
American Council of Engineering Companies,  
American Littoral Society,  
American Rivers,  
American Sustainable Business Council,  
Anthropocene Alliance,  
Associated General Contractors of America,  
Black Women's Health Imperative,  
Cahaba River Society,  
Clean Water Action,  
Clean Water Action Minnesota,  
Ducks Unlimited,  
Earthjustice,  
Endangered Habitats League,  
Environment America,  
Environmental Defense Fund,  
Environmental Law & Policy Center,  
For Love of Water (FLOW),  
Grasslands Water District,  
Great Egg Harbor Watershed Association,  
GreenLatinos,  
Healthy Gulf,  
Holy Spirit Missionary Sisters, USA-JPIC,  
Hydraulic Institute,  
Illinois Council of Trout Unlimited,  
International Union of Operating Engineers,  
International Union of Operating Engineers (Also in WIN Joint Letter),  
Laborers' International Union of North America,  
Leadership Team, U.S. Province of the School Sisters of St. Francis of St. Francis United,  
League of Conservation Voters,  
Milwaukee Metropolitan Sewer District,  
Milwaukee Riverkeeper,  
National Association of Clean Water Agencies,  
National Association of Counties,  
National Association of Regional Councils,  
National Coalition for Legislation on Affordable Water (NCLA-WATER),  
National Conference of State Legislatures,  
National Electrical Contractors Association,  
National Latino Farmers & Ranchers Trade Association,

National League of Cities,  
National Parks Conservation Association,  
National Wildlife Federation,  
Natural Resources Defense Council,  
Natural Resources Defense Council (Also in LCV Joint Letter),  
North America's Building Trades Union,  
Ohio Environmental Council,  
Onondaga Audubon,  
Religious Coalition for the Great Lakes,  
Rural Water,  
Sierra Club,  
Southern Environmental Law Center,  
Surfrider Foundation,  
United Association of Plumbers and Pipefitters,  
United States Chamber of Commerce,  
United States Conference of Mayors,  
United Steelworkers,  
Vinyl Institute,  
Water Infrastructure Network,  
Water Systems Council,  
Waterkeeper Alliance.

Mr. CARPER. I urge my colleagues to join me and Senator CAPITO in voting no on this amendment—again, looking forward to subsequently working with Senators RUBIO and SCOTT to see if we can come to a consensus on these changes.

The PRESIDING OFFICER. The Senator from West Virginia.

Mrs. CAPITO. Mr. President, I ask unanimous consent to address this for a minute.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. CAPITO. I just want to join with Senator CARPER in opposition to this amendment. While I think it is well-meaning for the State of Florida, and I think that both Senator RUBIO and Senator SCOTT have made us aware of this issue, I think that in order to update these formulas, we should have hearings. We should actually do this in a more studied, more detailed way than this amendment presents for us to do.

With that, I join my colleague and my chair in opposition to this amendment.

## VOTE ON AMENDMENT NO. 1471, AS MODIFIED

The PRESIDING OFFICER. The question is on agreeing to amendment No. 1471, as modified.

Mr. RUBIO. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The clerk will call the roll.

The bill clerk called the roll.

Mr. DURBIN. I announce that the Senator from Washington (Ms. CANTWELL) is necessarily absent.

Mr. THUNE. The following Senators are necessarily absent: the Senator from North Dakota (Mr. CRAMER), the Senator from Kentucky (Mr. PAUL), the Senator from South Dakota (Mr. ROUNDS), and the Senator from Alabama (Mr. SHELBY).

The PRESIDING OFFICER (Mr. SCHATZ). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 14, nays 81, as follows:

[Rollcall Vote No. 176 Leg.]

## YEAS—14

Burr	Lee	Scott (FL)
Cornyn	Ossoff	Sinema
Crapo	Risch	Tillis
Cruz	Romney	Warnock
Kelly	Rubio	

## NAYS—81

Baldwin	Grassley	Murphy
Barrasso	Hagerty	Murray
Bennet	Hassan	Padilla
Blackburn	Hawley	Peters
Blumenthal	Heinrich	Portman
Blunt	Hickenlooper	Reed
Booker	Hirono	Rosen
Boozman	Hoeven	Sanders
Braun	Hyde-Smith	Sasse
Brown	Inhofe	Schatz
Capito	Johnson	Schumer
Cardin	Kaine	Scott (SC)
Carper	Kennedy	Shaheen
Casey	King	Smith
Cassidy	Klobuchar	Stabenow
Collins	Lankford	Sullivan
Coons	Leahy	Tester
Cortez Masto	Lujan	Thune
Cotton	Lummis	Toomey
Daines	Manchin	Tuberville
Duckworth	Markey	Van Hollen
Durbin	Marshall	Warner
Ernst	McConnell	Warren
Feinstein	Menendez	Whitehouse
Fischer	Merkley	Wicker
Gillibrand	Moran	Wyden
Graham	Murkowski	Young

## NOT VOTING—5

Cantwell	Paul	Shelby
Cramer	Rounds	

The amendment (No. 1471), as modified, was rejected.

## AMENDMENT NO. 1461 TO AMENDMENT NO. 1460

The PRESIDING OFFICER. Under the previous order, there will be 2 minutes of debate equally divided prior to the vote in relation to amendment No. 1461.

Who yields time?

Mr. CARPER. I yield time.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mrs. SHAHEEN. Mr. President, I call up amendment 1461, and I want to thank Senators COLLINS, GILLIBRAND, KING, ROUNDS, and PETERS for cosponsoring this amendment and also thank Chairman CARPER and Ranking Member CAPITO for their support for the amendment.

As we all know, you can't put a price on safe drinking water, but for too many communities and too many households in this country, costs are a real barrier to contamination.

This bipartisan amendment will help States address pollution not just from regulated contaminants like arsenic but also from unregulated contaminants like PFAS. It does this by expanding an existing grant program to help small and disadvantaged communities, not just those defined as underserved. It would also help households with private wells.

We have to provide more tools to ensure that all Americans have access to clean, safe drinking water. My amendment would do just that. I urge its adoption, and I would be very happy to have this done by voice vote.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Mr. President, I am pleased to be a cosponsor of Senator

SHAHEEN's amendment. I urge its adoption.

Representing, as I do, a State where there are a great number of people who receive their drinking water from wells, it is really important that we extend this program to identify contaminants there.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. CARPER. Mr. President, the Shaheen-Collins amendment makes changes to the State Response to Contaminants Program. Specifically, the amendment expands the provisions for the State Response to Contaminants Program from covering just underserved communities to also small and disadvantaged communities, to allow communities that are financially unstable, which cannot afford to address contaminants, or small, which means less than 10,000 people in population, to qualify for grants to address contaminants in the drinking water.

This is a good amendment, and we thank the sponsor and also join here in cosponsoring. I urge a "yes" vote and a voice vote.

The PRESIDING OFFICER. The Senator from West Virginia.

Mrs. CAPITO. Mr. President, I would also join in the positive comments to say this meets two issues that I care deeply about and certainly hit my State, which is the PFAS issue and also small and disadvantaged communities. It very much helps with safe and clean drinking water.

Mrs. SHAHEEN. Mr. President, I rise today to speak in support of Senate amendment No. 1461, which I have offered to expand a key program that helps address contaminated drinking water. But before I do, I would like to commend Senator DUCKWORTH, Chairman CARPER, and Ranking Member CAPITO for developing the bipartisan legislation currently before the Senate, the Drinking Water and Wastewater Infrastructure Act. This bipartisan bill will invest more than \$35 billion for water infrastructure across the country. This can't come soon enough for States like New Hampshire.

Like most States, New Hampshire is suffering from aging infrastructure, much of it is between 50–100 years old. And unfortunately, our State government and municipalities simply do not have the ability to fully fund the hundreds of millions of dollars needed to address the rising costs of failing infrastructure, population growth, and changes in regulation. Communities across the country are facing similar financial challenges.

That is why Congress must pass sweeping legislation to tackle our Nation's water infrastructure problems, build climate-resilient systems, and ensure that all Americans have access to clean and safe water. The Drinking Water and Wastewater Infrastructure Act is a good first step, and I look forward to working with my colleagues on both sides of the aisle to do more.

The amendment I am offering today with Senators COLLINS, GILLIBRAND,

KING, ROUNDS, and PETERS will help more people impacted by drinking water contaminants, including those who rely on wells. While America's drinking water is among the safest in the world, unregulated contaminants, such as PFAS, are increasingly being detected in drinking water across the country. This is a problem in particular for New Hampshire's southern cities and towns, including Merrimack, Londonderry, Portsmouth, and Dover.

It is not just unregulated contaminants. Pollutants and known carcinogens like arsenic, radon, iron, and manganese have been found in New Hampshire groundwater sources at levels that threaten public health. According to the New Hampshire Department of Environmental Services, approximately 98,000 Granite Staters who utilize private wells have unsafe levels of arsenic in their water.

As I have heard again and again, discovering that you have been drinking contaminated water can produce a range of emotions, from anger and fear to guilt. It is heartbreaking to hear stories of parents worried about what their kids' exposure will mean for their health. I am committed to finding every opportunity to improve this situation. That is why I am proposing to expand a key part of the Environmental Protection Agency's Assistance for Small and Disadvantaged Communities Program to help States respond to water contamination in more places.

I want to make clear that States have flexibility to support a range of projects to address contaminants including in underground sources of drinking water, which will help households relying on well water. In New Hampshire, a little over half of our population gets its drinking water from public water systems that provide water from lakes, rivers, and wells. The remainder get their water from residential wells. All of them deserve healthy and safe drinking water. My amendment will help do just that. And I urge my colleagues to support it.

As I said at the outset, this bill we have before us today is a good step in addressing our water infrastructure needs, but there is more to be done. For instance, Congress must address outstanding issues affecting water infrastructure financing. The 2017 tax law repealed a longstanding incentive under section 118 of the Internal Revenue Code known as the Contributions in Aid of Construction exemption, or CIAC. Communities across New Hampshire have been planning projects for years that are now threatened by these tax changes. For example, the Hampstead Area Water Company reports that it is facing a \$1.5 million tax bill on an infrastructure project aimed at providing more customers access to clean drinking water. And what is worse, these tax increase may be passed on to utility customers, increasing their water bills. That is why I have filed an amendment to undo these harmful changes, so that our Tax Code

once again encourages these critical investments. I look forward to working with my colleagues to fix this.

We must also provide increased support for water systems in small rural communities across the country that are struggling as a result of this pandemic. The financial impacts of COVID-19 on systems serving 10,000 people or fewer is estimated to be at least \$3.6 billion. Yet no support for small rural water and wastewater systems has been included in COVID relief legislation to date. That is why I have joined with Senator TILLIS to introduce the Emergency Assistance for Rural Water Systems Act, legislation that would provide critical funding to small and rural communities during this challenging time.

Finally, we must address PFAS contamination and its effects on our communities. As many of us know, PFAS chemicals impact drinking water sources in and around military bases, manufacturing sites, airports, and other places across the country due to their widespread use in firefighting foam and consumer products. In my State of New Hampshire, the city of Portsmouth closed a major water supply well at the former Pease Air Force Base due to PFAS in the drinking water. And several communities in southern New Hampshire are struggling with groundwater PFAS contamination near the Saint-Gobain plant in Merrimack. Residents near the Coakley Landfill Superfund site in North Hampton and Greenland are concerned about high levels of PFAS found in nearby surface waters.

We owe it to the American families in New Hampshire and across the country who live and work near sites contaminated by these materials to invest at the scale necessary to fix the problem. That is why I have championed legislation, the PFAS Testing and Treatment Act, which would deliver robust Federal resources to support State efforts to address PFAS through remediation and clean up. I hope to work with the chairman and ranking member, as well as House and Senate leaders, to move this proposal forward.

Access to safe, clean drinking water is essential. While I am only seeking a vote on amendment No. 1461 today, I will continue to work on all of these issues. I look forward to passage of the Drinking Water and Wastewater Infrastructure Act and continuing to work to address these outstanding issues in future infrastructure bills.

VOICE OF AMENDMENT NO. 1461

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1461) was agreed to.

AMENDMENT NO. 1469 TO AMENDMENT NO. 1460

The PRESIDING OFFICER. Under the previous order, there will now be 2 minutes of debate equally divided prior to a vote in relation to amendment No. 1469.

The Senator from Louisiana.

Mr. KENNEDY. Mr. President, I want to talk briefly about boil water advisories. They are more than just frustrating. They are more than just inconvenient. They can be dangerous.

I don't know about the Presiding Officer's community or my colleagues' communities, but they have been happening more and more frequently in Louisiana. Since 2005, we have had 9,661 boil water advisories. We had 1,600 of them last year alone.

I thank the EPW Committee for working with me and all of my colleagues. My amendment would require the EPA to provide us an annual study on the prevalence of these boil water advisories and the reasons therefor so we can decide whether to take action, if any.

I would appreciate my colleagues' support.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. CARPER. Mr. President, I rise in support of Senator KENNEDY's amendment because we need to know more about boil orders, something that I, frankly, hadn't heard a lot about. I thank the Senator for bringing it to our attention.

We are in support of this amendment. These are frequently used, and transparency is needed on them.

I yield to the gentlewoman from West Virginia.

Mrs. CAPITO. Mr. President, I thank Senator KENNEDY for this. I pull up my local newspaper, and the first thing that comes up is listing the boil water advisories. This is absolutely needed. I think it is a great idea. I am very much in support of this.

#### VOTE ON AMENDMENT NO. 1469

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1469) was agreed to.

#### AMENDMENT NO. 1472 TO AMENDMENT NO. 1460

The PRESIDING OFFICER. Under the previous order, there will now be 2 minutes of debate equally divided prior to the vote in relation to amendment No. 1472.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. MANCHIN. Mr. President, I rise in opposition to this amendment by Senator LEE. His amendment would amend the Antiquities Act to prohibit the President from reserving water when designating a national monument.

The amendment states that any water rights associated with a national monument may only be acquired under State law. The Lee amendment overturns decades of Supreme Court precedent that when a President designates a national monument under the Antiquities Act, the designation reserves the right to use enough water to fulfill the purpose of the monument.

But the water infrastructure bill is not the appropriate place for this amendment. I urge my colleagues to oppose this amendment.

Mrs. CAPITO. Mr. President, we yield back our time.

#### VOTE ON AMENDMENT NO. 1472

The PRESIDING OFFICER. The question is on agreeing to the amendment.

Mrs. CAPITO. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The clerk will call the roll.

The senior assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Washington (Ms. CANTWELL) is necessarily absent.

Mr. THUNE. The following Senators are necessarily absent: the Senator from North Dakota (Mr. CRAMER), the Senator from Kentucky (Mr. PAUL), the Senator from South Dakota (Mr. ROUNDS), and the Senator from Alabama (Mr. SHELBY).

The result was announced—yeas 41, nays 54, as follows:

#### [Rollcall Vote No. 177 Leg.]

##### YEAS—41

Barrasso	Hagerty	Portman
Blackburn	Hawley	Risch
Boozman	Hoeven	Romney
Braun	Hyde-Smith	Rubio
Burr	Inhofe	Sasse
Cassidy	Johnson	Scott (FL)
Cornyn	Kennedy	Scott (SC)
Cotton	Lankford	Sullivan
Crapo	Lee	Thune
Cruz	Lummis	Tillis
Daines	Marshall	Toomey
Ernst	McConnell	Wicker
Fischer	Moran	Young
Grassley	Murkowski	

##### NAYS—54

Baldwin	Hassan	Peters
Bennet	Heinrich	Reed
Blumenthal	Hickenlooper	Rosen
Blunt	Hirono	Sanders
Booker	Kaine	Schatz
Brown	Kelly	Schumer
Capito	King	Shaheen
Cardin	Klobuchar	Sinema
Carper	Leahy	Smith
Casey	Lujan	Stabenow
Collins	Manchin	Tester
Coons	Markey	Tuberville
Cortez Masto	Menendez	Van Hollen
Duckworth	Merkley	Warner
Durbin	Murphy	Warnock
Feinstein	Murray	Warren
Gillibrand	Ossoff	Whitehouse
Graham	Padilla	Wyden

##### NOT VOTING—5

Cantwell	Paul	Shelby
Cramer	Rounds	

The amendment (No. 1472) was rejected.

The PRESIDING OFFICER (Mr. KING). On this vote, the yeas are 41, the nays are 54.

Under the previous order requiring 60 votes for the adoption of this amendment, the amendment is not agreed to.

The amendment (No. 1472) was rejected.

The PRESIDING OFFICER. Under the previous order, amendment No. 1460, as amended, is agreed to.

The amendment (No. 1460), as amended, was agreed to.

The PRESIDING OFFICER. The clerk will read the bill by title for a third time.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The majority whip.

Mr. DURBIN. Mr. President, I am going to raise an issue at this point that is not relevant to the water bill. I ask unanimous consent to be given that opportunity.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### EXTENDING TEMPORARY EMERGENCY SCHEDULING OF FENTANYL ANALOGUES ACT

Mr. DURBIN. Mr. President, we are in the midst of the worst opioid epidemic in a generation, and one tragic aspect of this is the widespread use of fentanyl, a deadly opioid that has killed thousands of people in America.

In 2018, the Drug Enforcement Administration took the unprecedented step of placing all fentanyl-related substances, also known as fentanyl analogs, on schedule I under the Controlled Substances Act. That makes it easier to prosecute any individual who sells or even simply possesses fentanyl analogs, and it subjects those individuals to stiff mandatory minimum penalties regardless of individual circumstances. Typically, a drug is only added to schedule I after the Department of Health and Human Services conducts a scientific study to determine if it has a high potential for abuse and no accepted medical use.

The DEA has had the temporary authority to bypass this process for 2 years. The authority was scheduled to expire on February 6 of last year, 2020. The DEA warned us of the dire consequences if it expired. In response, I worked with Senator LINDSEY GRAHAM and Senator FEINSTEIN and authored legislation extending the authority for 15 months, until May 6, 2021.

So what did the Trump administration do for the 12 months that it was in office with this issue still looming? Nothing and neither did Congress.

Now the Biden administration has asked Congress for an additional extension of the DEA's temporary authority in order to evaluate this issue. Just last week, the Senate confirmed Lisa Monaco as Deputy Attorney General. She will oversee the Drug Enforcement Administration. President Biden's nominee to head the DEA, Anne Milgram, is still to be considered by the Senate, so this request now for a temporary extension seems reasonable.

Let me add, though, at the same time as we grapple with the opioid epidemic, we are also in the midst of a national reckoning about racism and massive incarceration in America. We hold more prisoners, by far, than any country in the world. This is largely due to our failed War on Drugs, which has disproportionately targeted people of color. While the majority of illegal drug users and drug dealers in our country is White, the vast majority of