

118TH CONGRESS  
1ST SESSION

# H. R. 4746

To provide access to reliable, clean, and drinkable water on Tribal lands,  
and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

JULY 19, 2023

Mr. NEGUSE (for himself, Ms. MOORE of Wisconsin, Ms. STANSBURY, Ms. NORTON, and Mr. THOMPSON of California) introduced the following bill; which was referred to the Committee on Natural Resources, and in addition to the Committees on Energy and Commerce, and Agriculture, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To provide access to reliable, clean, and drinkable water  
on Tribal lands, and for other purposes.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Tribal Access to Clean  
5 Water Act of 2023”.

6 **SEC. 2. FINDINGS.**

7 Congress finds the following:

1           (1) Access to reliable, clean, and drinkable  
2 water is an essential human need and critical to the  
3 public health, well-being, educational attainment,  
4 and economic development of all communities in the  
5 United States.

6           (2) Many countries, along with the United Na-  
7 tions, have recognized the urgency of the need to ac-  
8 cess reliable, clean, and drinkable water by passing  
9 laws or resolutions relating to the human right to  
10 water and sanitation, including—

11                   (A) recognizing these water and sanitation  
12 needs exist among Indigenous peoples; and

13                   (B) establishing aggressive targets for  
14 achieving universal access to those basic serv-  
15 ices.

16           (3) In the United States, access to reliable,  
17 clean, and drinkable water has long been a signifi-  
18 cant problem in many Native communities, such that  
19 nearly half of all households in those communities do  
20 not have access to reliable water sources, clean  
21 drinking water, or basic sanitation, and are signifi-  
22 cantly more likely than White households to lack in-  
23 door plumbing.

24           (4) The trust responsibility of the Federal Gov-  
25 ernment to Indian Tribes requires the Federal Gov-

1       ernment to ensure the survival and welfare of Indian  
2       Tribes, and the failure to provide basic water service  
3       cannot be reconciled with that trust responsibility.

4               (5) The COVID–19 pandemic had, and con-  
5       tinues to have, a disproportionate impact on Native  
6       communities due to a multitude of factors, includ-  
7       ing—

8                       (A) persistent economic disadvantages;

9                       (B) racial inequity; and

10                      (C) lack of public health infrastructure, in-  
11       cluding access to running water.

12               (6) On January 27, 2021, President Biden  
13       issued Executive Order 14008 (86 Fed. Reg. 7619,  
14       February 1, 2021), which provides that it is the pol-  
15       icy of the Biden Administration to secure environ-  
16       mental justice and spur economic opportunity for  
17       disadvantaged communities that have been histori-  
18       cally marginalized and overburdened by pollution  
19       and underinvestment in housing, transportation,  
20       water and wastewater infrastructure, and health  
21       care.

22               (7) Through the bipartisan Infrastructure In-  
23       vestment and Jobs Act (Public Law 117–58; com-  
24       monly referred to as the “IIJA”), Congress has pro-  
25       vided funding for the Indian Health Service and the

1 Environmental Protection Agency to support the  
2 construction and repair of Tribal clean water infra-  
3 structure, but inadequate resources are available to  
4 Tribes to assist them with accessing these construc-  
5 tion and repair funding programs, and to support  
6 Tribes' operation and maintenance of water infra-  
7 structure.

8 (8) Filling the gaps in funding described in  
9 paragraph (7) is necessary to successfully implement  
10 the historic investment in clean water infrastructure  
11 in Native communities.

12 (9) Technical assistance to Tribes is necessary  
13 to ensure that they—

14 (A) are able to access and take advantage  
15 of the new construction funding made available  
16 through the IIJA;

17 (B) develop the managerial, financial, and  
18 regulatory framework necessary for a fully  
19 functional and self-sustaining utility; and

20 (C) are able to engage appropriate outside  
21 consultants to assist as needed.

22 (10) Advances in water technology, including  
23 treatment, sensors, and innovative pipeline mate-  
24 rials, can assist in—

1 (A) accelerating efforts to provide uni-  
2 versal access to reliable, clean, and drinkable  
3 water for all Native communities; and

4 (B) enhancing resilience in the face of cli-  
5 mate change.

6 (11) The COVID–19 pandemic has been a  
7 stark reminder that access to reliable, clean, and  
8 drinkable water to support basic hygiene is a matter  
9 of life or death for all individuals in the United  
10 States.

11 (12) It is in the interest of the United States,  
12 and it is the policy of the United States, that all ex-  
13 isting Native communities be provided with safe and  
14 adequate water supply systems as soon as prac-  
15 ticable.

16 (13) Both appropriate funding at the level of  
17 unmet need and a “whole of government” approach  
18 among all Federal agencies are essential to provide  
19 a meaningful solution to the lack of access to clean  
20 water on Tribal lands.

21 **SEC. 3. DEFINITIONS.**

22 In this Act:

23 (1) INDIAN TRIBE.—The term “Indian Tribe”  
24 has the meaning given the term in section 4 of the

1 Indian Self-Determination and Education Assistance  
2 Act (25 U.S.C. 5304).

3 (2) NATIVE COMMUNITY.—The term “Native  
4 community” means—

5 (A) an Indian Tribe; and

6 (B) a Native Hawaiian community.

7 (3) NATIVE HAWAIIAN.—The term “Native Ha-  
8 waiian” has the meaning given that term in section  
9 801 of the Native American Housing Assistance and  
10 Self-Determination Act of 1996 (25 U.S.C. 4221).

11 (4) TECHNICAL ASSISTANCE.—The term “tech-  
12 nical assistance” means the provision of govern-  
13 mental or private sector expertise—

14 (A) to facilitate Native community access  
15 to repair and construction funding for clean  
16 water facilities made available through the In-  
17 frastructure Investment and Jobs Act (Public  
18 Law 117–58; 135 Stat. 429) or the rural devel-  
19 opment mission area of the Department of Ag-  
20 riculture; and

21 (B) to support Native communities in de-  
22 veloping the managerial, financial, and regu-  
23 latory capacity necessary for a fully functional  
24 and self-sustaining utility.

1 **SEC. 4. DEPARTMENT OF AGRICULTURE RURAL DEVELOP-**  
2 **MENT.**

3 (a) EXTENSION OF AUTHORITY FOR GRANTS AND  
4 LOANS.—In addition to the purposes for which loans and  
5 grants may be provided under sections 306C and 306D  
6 of the Consolidated Farm and Rural Development Act (7  
7 U.S.C. 1926e, 1926d), the Secretary of Agriculture (re-  
8 ferred to in this section as the “Secretary”) may make  
9 or insure loans and make grants to eligible entities de-  
10 scribed in subsection (c) for technical assistance.

11 (b) AUTHORIZATION OF APPROPRIATIONS.—In addi-  
12 tion to amounts otherwise available, there are authorized  
13 to be appropriated to the Secretary for each of fiscal years  
14 2024 through 2028—

15 (1) \$100,000,000, to remain available until ex-  
16 pended, to make or insure loans and make grants  
17 under sections 306C and 306D of the Consolidated  
18 Farm and Rural Development Act (7 U.S.C. 1926e,  
19 1926d), and for the additional purposes described in  
20 subsection (a), to eligible entities described in sub-  
21 section (c) to provide for the development, use, and  
22 control of water (including the extension or improve-  
23 ment of existing water supply systems); and

24 (2) \$30,000,000, to remain available until ex-  
25 pended, for eligible entities described in subsection  
26 (c) to contract for technical assistance.

1 (c) ELIGIBLE ENTITIES.—An entity eligible to re-  
2 ceive a grant or an award of financial or technical assist-  
3 ance using amounts appropriated under paragraph (1) or  
4 (2) of subsection (b) or amounts otherwise available under  
5 sections 306C and 306D of the Consolidated Farm and  
6 Rural Development Act (7 U.S.C. 1926c, 1926d) is—

- 7 (1) a Native community; or  
8 (2) in the case of a grant in accordance with  
9 section 306D of the Consolidated Farm and Rural  
10 Development Act, a consortium formed pursuant to  
11 section 325 of Public Law 105–83 (111 Stat. 1597).

12 (d) NO MATCHING CONTRIBUTION.—The provision  
13 of funds made available under subsection (b) shall not be  
14 conditioned on any matching contribution otherwise re-  
15 quired by any other provision of law (including regula-  
16 tions).

17 (e) PRIORITY FOR FUNDING.—In making or insuring  
18 loans or making grants to eligible entities using amounts  
19 appropriated under subsection (b), the Secretary shall—

- 20 (1) treat members of an eligible entity in the  
21 same manner as individuals who reside in a colonia  
22 for purposes of subsections (a)(2)(B) and (c)(2) of  
23 section 306C of the Consolidated Farm and Rural  
24 Development Act (7 U.S.C. 1926c); and



1           (2) make or insure the loans or award the  
2           grants without requiring the eligible entity or the  
3           members of an eligible entity to demonstrate an in-  
4           ability to finance the proposed project—

5                   (A) from the resources of the eligible entity  
6                   or members; or

7                   (B) through commercial credit.

8           (f) INTERAGENCY COLLABORATION.—The Secretary  
9           shall consult with the Director of the Indian Health Serv-  
10          ice regarding agency collaboration, project prioritization,  
11          and staffing needs to ensure that funds made available  
12          under subsection (b) are used in the most effective manner  
13          to promote access to water and sanitation.

14          **SEC. 5. INDIAN HEALTH SERVICE.**

15          (a) DEFINITION OF SECRETARY.—In this section, the  
16          term “Secretary” means the Secretary of Health and  
17          Human Services, acting through the Director of the In-  
18          dian Health Service.

19          (b) SANITATION FACILITIES CONSTRUCTION PRO-  
20          GRAM.—For the purposes of section 7(a)(1) of the Act of  
21          August 5, 1974 (42 U.S.C. 2004a(a)(1)), “Indian homes,  
22          communities, and lands” for which the Secretary has au-  
23          thority to “construct, improve, extend, or otherwise pro-  
24          vide and maintain, by contract or otherwise, essential sani-  
25          tation facilities, including domestic and community water

1 supplies and facilities, drainage facilities, and sewage-dis-  
2 posal and waste-disposal facilities” shall include commu-  
3 nity structures that are essential to the life of the Native  
4 community and provide indispensable educational, eco-  
5 nomic, and community services, such as schools, hospitals,  
6 nursing homes, teachers’ homes, Tribal offices, and post  
7 offices.

8 (c) AUTHORIZATION OF APPROPRIATIONS.—There is  
9 authorized to be appropriated to the Secretary, in addition  
10 to amounts otherwise available, \$20,000,000 for each of  
11 fiscal years 2024 through 2028, to remain available until  
12 expended, to construct, improve, extend, or otherwise pro-  
13 vide and maintain, by contract or otherwise, essential sani-  
14 tation facilities, including domestic and community water  
15 supplies and facilities, drainage facilities, and sewage- and  
16 waste-disposal facilities for community structures de-  
17 scribed in subsection (b).

18 (d) TECHNICAL ASSISTANCE FUNDING.—In addition  
19 to amounts otherwise available, there is authorized to be  
20 appropriated to the Secretary \$30,000,000 for each of fis-  
21 cal years 2024 through 2028, to remain available until ex-  
22 pended, for Indian Tribes and Native communities to  
23 enter into contracts for—

24 (1) technical assistance; and

1           (2) for other activities authorized under section  
2           302(b)(2) of the Indian Health Care Improvement  
3           Act (25 U.S.C. 1632(b)(2)).

4           (e) OPERATION AND MAINTENANCE FUNDING.—

5           (1) IN GENERAL.—The Secretary may provide  
6           financial assistance for the operation and mainte-  
7           nance of water facilities serving Native communities.

8           (2) AUTHORIZATION OF APPROPRIATIONS.—In  
9           addition to amounts otherwise available, there is au-  
10          thorized to be appropriated to the Secretary  
11          \$100,000,000 for each of fiscal years 2024 through  
12          2028, to remain available until expended, for pro-  
13          viding assistance for the operation and maintenance  
14          of water facilities serving Native communities.

15          (3) PRIORITY FOR FUNDING.—In awarding  
16          funding under paragraph (2), the Secretary shall  
17          prioritize water facilities that the Secretary deter-  
18          mines to be the most in need of assistance.

19          (4) FUTURE FUNDING.—For not less than 5  
20          years after the date on which a water facilities  
21          project described in paragraph (1) is completed, to  
22          the extent to which annual appropriations are avail-  
23          able, the Secretary shall include the completed  
24          project as eligible for funding assistance for oper-

1        ation and maintenance of the water facility to ensure  
2        that—

3                    (A) the investments in the water facilities  
4                    are adequately maintained and operated for the  
5                    health and welfare of Native communities  
6                    served;

7                    (B) the infrastructure investment is pro-  
8                    tected; and

9                    (C) the intended economic benefit is real-  
10                    ized.

11 **SEC. 6. BUREAU OF RECLAMATION.**

12        In addition to amounts otherwise available, there is  
13 authorized to be appropriated to the Secretary of the Inte-  
14 rior \$18,000,000 for each of fiscal years 2024 through  
15 2028, to remain available until expended, for use, in ac-  
16 cordance with section 201 of the Energy and Water Devel-  
17 opment Appropriations Act, 2003 (43 U.S.C. 373d), for  
18 the Native American Affairs Technical Assistance Pro-  
19 gram of the Bureau of Reclamation for the fiscal year end-  
20 ing September 30, 2024.

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