

116TH CONGRESS
2D SESSION

S. 4362

To prohibit water and power shutoffs during the COVID–19 emergency period, provide drinking and wastewater assistance to households, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JULY 29, 2020

Mr. MERKLEY (for himself, Ms. WARREN, Ms. HARRIS, Mrs. MURRAY, Mrs. GILLIBRAND, Mr. MARKEY, Mr. BLUMENTHAL, Mr. WYDEN, Mr. BROWN, Mr. DURBIN, and Mr. MURPHY) introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

A BILL

To prohibit water and power shutoffs during the COVID–19 emergency period, provide drinking and wastewater assistance to households, 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 “Emergency Water and
5 Energy is a Human Right Act”.

6 **SEC. 2. HOME ENERGY AND WATER SERVICE CONTINUITY.**

7 (a) DEFINITIONS.—In this section:

1 (1) HOME ENERGY SERVICE.—The term “home
2 energy service” means a service to provide home en-
3 ergy, as such term is defined in section 2603 of the
4 Low-Income Home Energy Assistance Act of 1981
5 (42 U.S.C. 8622), and electric service, as that term
6 is used in the Public Utility Regulatory Policies Act
7 of 1978 (16 U.S.C. 2601 et seq.) to a residential
8 customer.

9 (2) PUBLIC WATER SYSTEM.—The term “public
10 water system” has the meaning given that term in
11 section 1401 of the Safe Drinking Water Act (42
12 U.S.C. 300f).

13 (b) CONTINUITY.—Any entity receiving financial as-
14 sistance pursuant to this Act shall establish or maintain
15 in effect policies to ensure that no home energy service
16 or service of a public water system or treatment works
17 to a residential customer, which is provided or regulated
18 by such entity, is or remains disconnected or interrupted
19 during the public health emergency period, as defined in
20 section 3(m) because of nonpayment, and all reconnections
21 of service of a water system or treatment works are con-
22 ducted in a manner that minimizes risk to the health of
23 individuals receiving such service.

24 (c) RULE OF CONSTRUCTION.—Nothing in this Act
25 shall be construed—

1 (1) to require forgiveness of outstanding debt
2 owed to an entity or to absolve an individual of any
3 obligation to an entity for service described in sub-
4 section (b); or

5 (2) to preempt any State or local law (including
6 a regulation) governing entities that provide such
7 service to residential customers.

8 **SEC. 3. LOW-INCOME HOUSEHOLD DRINKING WATER AND**
9 **WASTEWATER SERVICES ASSISTANCE.**

10 (a) **AUTHORIZATION OF APPROPRIATIONS.**—There is
11 authorized to be appropriated \$1,500,000,000 to the Sec-
12 retary to carry out this section. Such sum shall remain
13 available until expended.

14 (b) **LOW-INCOME HOUSEHOLD DRINKING WATER**
15 **AND WASTEWATER SERVICES ASSISTANCE.**—The Sec-
16 retary shall make grants from allotments described in sub-
17 section (d) to States and Indian Tribes to assist low-in-
18 come households, particularly those with the lowest in-
19 comes, that pay a high proportion of household income
20 for household drinking water and wastewater services, by
21 providing payments to owners or operators of public water
22 systems or treatment works to reduce rates charged to
23 low-income households for such services.

24 (c) **NONDUPLICATION OF EFFORT.**—In carrying out
25 a program under this section, the Secretary, States, and

1 Indian Tribes, as applicable, shall, as appropriate and to
2 the extent practicable, use existing (as of the date of im-
3 plementation) processes, procedures, policies, and systems
4 in place to provide assistance to low-income households,
5 including by using existing application and approval pro-
6 cesses.

7 (d) ALLOTMENT.—

8 (1) FACTORS.—The Secretary shall allot
9 amounts appropriated to carry out this section and
10 not reserved under paragraph (2) to a State or In-
11 dian Tribe taking into account—

12 (A) the percentage of households in the
13 State, or under the jurisdiction of the Indian
14 Tribe, with household income equal to or less
15 than 150 percent of the poverty line;

16 (B) the percentage of households described
17 in subparagraph (A) in the State, or under the
18 jurisdiction of the Indian Tribe, that spend
19 more than 30 percent of monthly household in-
20 come on housing; and

21 (C) the extent to which the State or Indian
22 Tribe has been affected by the public health
23 emergency, including the rate of transmission of
24 COVID–19 in the State or area under the juris-
25 diction of the Indian Tribe, the number of

1 COVID–19 cases in the State or area compared
2 to the national average, and economic interrup-
3 tions in the State or area resulting from the
4 public health emergency.

5 (2) RESERVED FUNDS.—The Secretary shall re-
6 serve a portion of not more than 10 percent of the
7 amounts appropriated to carry out this section and
8 use the portion to allot funds to a State or Indian
9 Tribe based on the economic disruptions to the State
10 or Indian Tribe resulting from—

11 (A) the emergency involving Federal pri-
12 mary responsibility declared by the President
13 under section 501(b) of the Robert T. Stafford
14 Disaster Relief and Emergency Assistance Act
15 (42 U.S.C. 5191(b)) with respect to the
16 Coronavirus Disease 2019 (COVID–19), during
17 the period covered by such emergency declara-
18 tion; and

19 (B) any subsequent major disaster de-
20 clared by the President under section 401 of
21 such Act (42 U.S.C. 5170) during the period
22 covered by such major disaster declaration, if
23 that declaration supersedes such declaration.

24 (e) DETERMINATION OF LOW-INCOME HOUSE-
25 HOLDS.—

1 (1) MINIMUM DEFINITION OF LOW-INCOME.—In
2 determining whether a household in a State or under
3 the jurisdiction of an Indian Tribe is considered low-
4 income for the purposes of this section, the State or
5 Indian Tribe—

6 (A) shall ensure that, at a minimum, all
7 households with a household income equal to or
8 less than 150 percent of the poverty line are in-
9 cluded as low-income households;

10 (B) shall ensure that, at a minimum, all
11 households with a household income equal to or
12 less than 60 percent of the median household
13 income in the State involved (or the State in
14 which the Indian tribe is primarily located) are
15 included as low-income households;

16 (C) may include households that have been
17 adversely economically affected by job loss or
18 severe income loss related to the public health
19 emergency; and

20 (D) may include other households, includ-
21 ing households in which 1 or more individuals
22 are receiving—

23 (i) assistance under the program of
24 block grants to States for temporary as-
25 sistance for needy families established

1 under part A of title IV of the Social Secu-
2 rity Act (42 U.S.C. 601 et seq.);

3 (ii) payments under the supplemental
4 security income program established under
5 title XVI of the Social Security Act (42
6 U.S.C. 1381 et seq.);

7 (iii) benefits under the supplemental
8 nutrition assistance program under the
9 Food and Nutrition Act of 2008 (7 U.S.C.
10 2011 et seq.); or

11 (iv) payments under section 1315,
12 1521, 1541, or 1542 of title 38, United
13 States Code, or under section 306 of the
14 Veterans' and Survivors' Pension Improve-
15 ment Act of 1978 (38 U.S.C. 1521 note).

16 (2) HOUSEHOLD DOCUMENTATION REQUIRE-
17 MENTS.—For determining whether a household is
18 considered low-income for the purposes of this sec-
19 tion, States and Indian Tribes shall—

20 (A) to the maximum extent practicable,
21 seek to limit the income history documentation
22 requirements; and

23 (B) accept proof of job loss or severe in-
24 come loss dated after February 29, 2020, such
25 as a layoff or furlough notice or verification of

1 application for unemployment benefits, as suffi-
2 cient to demonstrate lack of income for an indi-
3 vidual in the household or for the household.

4 (f) APPLICATIONS.—Each State or Indian Tribe de-
5 siring to receive a grant under this section shall submit
6 an application to the Secretary, in such form as the Sec-
7 retary shall require.

8 (g) STATE AGREEMENTS.—To the maximum extent
9 practicable, a State that receives a grant under this sec-
10 tion shall enter into agreements with public water systems,
11 treatment works, municipalities, nonprofit organizations
12 associated with providing household drinking water and
13 wastewater services to rural and small communities, and
14 Indian Tribes, to assist in identifying low-income house-
15 holds and to carry out this section.

16 (h) UTILITY RESPONSIBILITIES.—An owner or oper-
17 ator of a public water system or treatment works receiving
18 a payment from a State or Indian Tribe pursuant to this
19 section for the purposes of reducing rates charged to low-
20 income households for service shall—

21 (1) conduct outreach activities designed to en-
22 sure that such households are made aware of the
23 rate reduction assistance available pursuant to this
24 section;

1 (2) charge such households, in the normal bill-
2 ing process, not more than the difference between
3 the actual cost of the service provided and the
4 amount of the household's share of the payment
5 made by the State or Indian Tribe pursuant to this
6 section; and

7 (3) within 45 days after providing assistance to
8 a household pursuant to this section, notify in writ-
9 ing such household of the amount of such assistance.

10 (i) ADMINISTRATIVE COSTS.—A State or Indian
11 Tribe that receives a grant under this section may use up
12 to 8 percent of the grant amounts for administrative costs
13 of carrying out this section.

14 (j) FEDERAL AGENCY COORDINATION.—In carrying
15 out this section, the Secretary shall coordinate with the
16 Administrator of the Environmental Protection Agency
17 and consult with other Federal agencies with authority
18 over the provision of household drinking water and waste-
19 water services.

20 (k) AUDITS.—The Secretary shall require each State
21 and Indian Tribe receiving a grant under this section to
22 undertake periodic audits and evaluations of expenditures
23 made by such State or Indian Tribe pursuant to this sec-
24 tion.

1 (l) REPORTS TO CONGRESS.—The Secretary shall
2 prepare reports on the results of activities carried out pur-
3 suant to this section and submit the reports to Congress—

4 (1) not later than 1 year after the date of en-
5 actment of this section; and

6 (2) upon disbursement of all funds appropriated
7 to carry out this section.

8 (m) DEFINITIONS.—In this section:

9 (1) HOUSEHOLD DRINKING WATER AND WASTE-
10 WATER SERVICES.—The term “household drinking
11 water and wastewater services” has the meaning
12 given that term in section 1459A(a)(2) of the Safe
13 Drinking Water Act (42 U.S.C. 300j–19a(a)(2)).

14 (2) INDIAN TRIBE.—The term “Indian Tribe”
15 means any Indian Tribe, band, group, or community
16 recognized by the Secretary of the Interior and exer-
17 cising governmental authority over a Federal Indian
18 reservation, as defined in section 518(h) of the Fed-
19 eral Water Pollution Control Act (33 U.S.C. 1377).

20 (3) MUNICIPALITY.—The term “municipality”
21 has the meaning given that term in section 502 of
22 the Federal Water Pollution Control Act (33 U.S.C.
23 1362).

24 (4) POVERTY LINE.—The term “poverty line”
25 has the meaning given that term in section 673 of

1 the Community Services Block Grant Act (42 U.S.C.
2 9902).

3 (5) PUBLIC HEALTH EMERGENCY.—The term
4 “public health emergency” means the public health
5 emergency described in section 1135(g)(1)(B) of the
6 Social Security Act (42 U.S.C. 1320b–5(g)(1)(B)).

7 (6) PUBLIC HEALTH EMERGENCY PERIOD.—
8 The term “public health emergency period” has the
9 meaning given that term in section 1135(g)(1)(B).

10 (7) PUBLIC WATER SYSTEM.—The term “public
11 water system” has the meaning given that term in
12 section 1401 of the Safe Drinking Water Act (42
13 U.S.C. 300f).

14 (8) SECRETARY.—The term “Secretary” means
15 the Secretary of Health and Human Services.

16 (9) STATE.—The term “State” means any of
17 the 50 States, the District of Columbia, the Com-
18 monwealth of Puerto Rico, the Virgin Islands of the
19 United States, Guam, American Samoa, and the
20 Commonwealth of the Northern Mariana Islands.

21 (10) TREATMENT WORKS.—The term “treat-
22 ment works” has the meaning given that term in
23 section 212 of the Federal Water Pollution Control
24 Act (33 U.S.C. 1292).

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