

114TH CONGRESS
2D SESSION

S. 2579

To provide additional support to ensure safe drinking water.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 24, 2016

Ms. STABENOW (for herself, Mr. INHOFE, Mr. PETERS, Mr. PORTMAN, Mr. BROWN, Mr. KIRK, Mr. REED, Mr. BURR, Mr. DURBIN, and Mrs. BOXER) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

A BILL

To provide additional support to ensure safe drinking water.

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 “Drinking Water Safety
5 and Infrastructure Act”.

6 **SEC. 2. DRINKING WATER INFRASTRUCTURE.**

7 (a) DEFINITIONS.—In this section:

8 (1) ADMINISTRATOR.—The term “Adminis-
9 trator” means the Administrator of the Environ-
10 mental Protection Agency.

1 (2) ELIGIBLE STATE.—The term “eligible
2 State” means a State for which the President has
3 declared an emergency under the Robert T. Stafford
4 Disaster Relief and Emergency Assistance Act (42
5 U.S.C. 5121 et seq.) relating to the public health
6 threats associated with the presence of lead or other
7 contaminants in a public drinking water supply sys-
8 tem.

9 (3) ELIGIBLE SYSTEM.—The term “eligible sys-
10 tem” means a public drinking water supply system
11 that is the subject of an emergency declaration re-
12 ferred to in paragraph (2).

13 (b) STATE REVOLVING LOAN FUND ASSISTANCE.—

14 (1) IN GENERAL.—An eligible system shall be—

15 (A) considered to be a disadvantaged com-
16 munity under section 1452(d) of the Safe
17 Drinking Water Act (42 U.S.C. 300j–12(d));
18 and

19 (B) eligible to receive loans with additional
20 subsidization under that Act (42 U.S.C. 300f et
21 seq.), including forgiveness of principal under
22 section 1452(d)(1) of that Act (42 U.S.C.
23 300j–12(d)(1)).

24 (2) AUTHORIZATION.—

1 (A) IN GENERAL.—Using funds provided
2 under subsection (e)(1)(A), an eligible State
3 may provide assistance to an eligible system
4 within the eligible State, for the purpose of ad-
5 dressing lead or other contaminants in drinking
6 water, including repair and replacement of pub-
7 lic and private drinking water infrastructure.

8 (B) INCLUSION.—Assistance provided
9 under subparagraph (A) may include additional
10 subsidization under the Safe Drinking Water
11 Act (42 U.S.C. 300f et seq.), as described in
12 paragraph (1)(B).

13 (C) EXCLUSION.—Assistance provided
14 under subparagraph (A) shall not include as-
15 sistance for a project that is financed (directly
16 or indirectly), in whole or in part, with proceeds
17 of any obligation issued after the date of enact-
18 ment of this Act—

19 (i) the interest of which is exempt
20 from the tax imposed under chapter 1 of
21 the Internal Revenue Code of 1986; or

22 (ii) with respect to which credit is al-
23 lowable under subpart I or J of part IV of
24 subchapter A of chapter 1 of such Code.

(3) LIMITATION.—Section 1452(d)(2) of the Safe Drinking Water Act (42 U.S.C. 300j–12(d)(2)) shall not apply to—

(A) any funds provided under subsection (e)(1)(A); or

(B) any other loan provided to an eligible system.

(c) WATER INFRASTRUCTURE FINANCING.—

(1) SECURED LOANS.—

(A) IN GENERAL.—Using funds provided under subsection (e)(2)(A), the Administrator may make a secured loan under the Water Infrastructure Finance and Innovation Act of 2014 (33 U.S.C. 3901 et seq.) to—

(i) an eligible State to carry out a project eligible under paragraphs (2) through (9) of section 5026 of that Act (33 U.S.C. 3905) to address lead or other contaminants in drinking water in an eligible system, including repair and replacement of public and private drinking water infrastructure; and

(ii) any eligible entity under section 5025 of that Act (33 U.S.C. 3904) for a project eligible under paragraphs (2)

1 through (9) of section 5026 of that Act
2 (33 U.S.C. 3905).

3 (B) AMOUNT.—Notwithstanding section
4 5029(b)(2) of the Water Infrastructure Finance
5 and Innovation Act of 2014 (33 U.S.C.
6 3908(b)(2)), the amount of a secured loan pro-
7 vided under subparagraph (A)(i) may be equal
8 to not more than 80 percent of the reasonably
9 anticipated costs of the projects.

10 (2) FEDERAL INVOLVEMENT.—Notwithstanding
11 section 5029(b)(9) of the Water Infrastructure Fi-
12 nance and Innovation Act of 2014 (33 U.S.C.
13 3908(b)(9)), any costs for a project to address lead
14 or other contaminants in drinking water in an eligi-
15 ble system that are not covered by a secured loan
16 under paragraph (1) may be covered using amounts
17 in the State revolving loan fund under section 1452
18 of the Safe Drinking Water Act (42 U.S.C. 300j–
19 12).

20 (d) NONDUPLICATION OF WORK.—An activity car-
21 ried out pursuant to this section shall not duplicate the
22 work or activity of any other Federal or State department
23 or agency.

24 (e) FUNDING.—

1 (1) ADDITIONAL DRINKING WATER STATE RE-
2 VOLVING FUND CAPITALIZATION GRANTS.—

3 (A) IN GENERAL.—The Secretary of the
4 Treasury shall make available to the Adminis-
5 trator a total of \$100,000,000 to provide addi-
6 tional grants to eligible States pursuant to sec-
7 tion 1452 of the Safe Drinking Water Act (42
8 U.S.C. 300j–12), to be available during the pe-
9 riod of fiscal years 2016 and 2017 for the pur-
10 poses described in subsection (b)(2).

11 (B) SUPPLEMENTED INTENDED USE
12 PLANS.—From funds made available under sub-
13 paragraph (A), the Administrator shall obligate
14 to an eligible State such amounts as are nec-
15 essary to meet the needs identified in a supple-
16 mented intended use plan by not later than 30
17 days after the date on which the eligible State
18 submits to the Administrator a supplemented
19 intended use plan under section 1452(b) of the
20 Safe Drinking Water Act (42 U.S.C. 300j–
21 12(b)) that includes preapplication information
22 regarding projects to be funded using the addi-
23 tional assistance, including, with respect to each
24 such project—

25 (i) a description of the project;

(ii) an explanation of the means by which the project will address a situation causing a declared emergency in the eligible State;

(iii) the estimated cost of the project; and

(iv) the projected start date for construction of the project.

(C) UNOBLIGATED AMOUNTS.—Any amounts made available to the Administrator under subparagraph (A) that are unobligated on the date that is 18 months after the date on which the amounts are made available shall be available to provide additional grants to States to capitalize State loan funds as provided under section 1452 of the Safe Drinking Water Act (42 U.S.C. 300j–12).

(D) APPLICABILITY.—Section 1452(b)(1) of the Safe Drinking Water Act (42 U.S.C. 300j–12(b)(1)) shall not apply to a supplement to an intended use plan under subparagraph (B).

(2) WIFLA FUNDING.—

(A) IN GENERAL.—As soon as practicable after the date of enactment of this Act, the Sec-

retary of the Treasury shall make available to the Administrator \$70,000,000 to provide credit subsidies, in consultation with the Director of the Office of Management and Budget, for secured loans under subsection (c)(1)(A) with a goal of providing secured loans totaling at least \$700,000,000.

(B) USE.—Secured loans provided pursuant to subparagraph (A) shall be available to carry out activities described in subsection (c)(1)(A).

(3) APPLICABILITY.—Unless explicitly waived, all requirements under the Safe Drinking Water Act (42 U.S.C. 300f et seq.) and the Water Infrastructure Finance and Innovation Act of 2014 (33 U.S.C. 3901 et seq.) shall apply to funding provided under this subsection.

(f) HEALTH EFFECTS EVALUATION.—

(1) IN GENERAL.—Pursuant to section 104(i)(1)(E) of the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. 9604(i)(1)(E)), and on receipt of a request of an appropriate State or local health official of an eligible State, the Director of the Agency for Toxic Substances and Disease Registry of the National

1 Center for Environmental Health shall in coordina-
2 tion with other agencies, as appropriate, conduct vol-
3 untary surveillance activities to evaluate any adverse
4 health effects on individuals exposed to lead from
5 drinking water in the affected communities.

6 (2) CONSULTATIONS.—Pursuant to section
7 104(i)(4) of the Comprehensive Environmental Re-
8 sponse, Compensation, and Liability Act (42 U.S.C.
9 9604(i)(4)), and on receipt of a request of an appro-
10 priate State or local health official of an eligible
11 State, the Director of the Agency for Toxic Sub-
12 stances and Disease Registry of the National Center
13 for Environmental Health shall provide consultations
14 regarding health issues described in paragraph (1).

15 **SEC. 3. LOAN FORGIVENESS.**

16 The matter under the heading “STATE AND TRIBAL
17 ASSISTANCE GRANTS” under the heading “ENVIRON-
18 MENTAL PROTECTION AGENCY” in title II of divi-
19 sion G of the Consolidated Appropriations Act, 2016
20 (Public Law 114–113), is amended in paragraph (1), by
21 striking the semicolon at the end and inserting the fol-
22 lowing: “or, if a Federal or State emergency declaration
23 has been issued due to a threat to public health from
24 heightened exposure to lead in a municipal drinking water
25 supply, before the date of enactment of this Act: *Provided*

1 *further*, That in a State in which such an emergency dec-
 2 laration has been issued, the State may use more than
 3 20 percent of the funds made available under this title
 4 to the State for Drinking Water State Revolving Fund
 5 capitalization grants to provide additional subsidy to eligi-
 6 ble recipients;”.

7 **SEC. 4. DISCLOSURE OF PUBLIC HEALTH THREATS FROM**
 8 **LEAD EXPOSURE.**

9 (a) EXCEEDANCE OF LEAD ACTION LEVEL.—Section
 10 1414(c) of the Safe Drinking Water Act (42 U.S.C. 300g–
 11 3(c)) is amended—

12 (1) in paragraph (1), by adding at the end the
 13 following:

14 “(D) Notice of any exceedance of a lead
 15 action level or any other prescribed level of lead
 16 in a regulation issued under section 1412, in-
 17 cluding the concentrations of lead found in a
 18 monitoring activity or any other level of lead
 19 determined by the Administrator to warrant no-
 20 tice, either on a case-specific or more general
 21 basis.”;

22 (2) in paragraph (2)—

23 (A) by redesignating subparagraphs (D)
 24 and (E) as subparagraphs (E) and (F), respec-
 25 tively; and

1 (B) by inserting after subparagraph (C)
 2 the following:

3 “(D) EXCEEDANCE OF LEAD ACTION
 4 LEVEL.—Regulations issued under subpara-
 5 graph (A) shall specify notification procedures
 6 for an exceedance of a lead action level or any
 7 other prescribed level of lead in a regulation
 8 issued under section 1412.”;

9 (3) by redesignating paragraphs (3) and (4) as
 10 paragraphs (4) and (5), respectively; and

11 (4) by inserting after paragraph (2) the fol-
 12 lowing:

13 “(3) NOTIFICATION OF THE PUBLIC RELATING
 14 TO LEAD.—

15 “(A) EXCEEDANCE OF LEAD ACTION
 16 LEVEL.—Not later than 15 days after the date
 17 of being notified by the primary agency of an
 18 exceedance of a lead action level or any other
 19 prescribed level of lead in a regulation issued
 20 under section 1412, including the concentra-
 21 tions of lead found in a monitoring activity or
 22 any other level of lead determined by the Ad-
 23 ministrator to warrant notice, either on a case-
 24 specific or more general basis, the Adminis-
 25 trator shall notify the public of the concentra-

1 tions of lead found in the monitoring activity
2 conducted by the public water system if the
3 public water system or the State does not notify
4 the public of the concentrations of lead found in
5 a monitoring activity.

6 “(B) RESULTS OF LEAD MONITORING.—

7 “(i) IN GENERAL.—The Administrator
8 may provide notice of any result of lead
9 monitoring conducted by a public water
10 system to—

11 “(I) any person that is served by
12 the public water system; or

13 “(II) the local or State health de-
14 partment of a locality or State in
15 which the public water system is lo-
16 cated.

17 “(ii) FORM OF NOTICE.—The Admin-
18 istrator may provide the notice described
19 in clause (i) by—

20 “(I) press release; or

21 “(II) other form of communica-
22 tion, including local media.

23 “(C) PRIVACY.—Notice to the public shall
24 protect the privacy of individual customer infor-
25 mation.”.

1 (b) CONFORMING AMENDMENTS.—Section 1414(c)
 2 of the Safe Drinking Water Act (42 U.S.C. 300g–3(c))
 3 is amended—

4 (1) in paragraph (1)(C), by striking “paragraph
 5 (2)(E)” and inserting “paragraph (2)(F)”;

6 (2) in paragraph (2)(B)(i)(II), by striking “sub-
 7 paragraph (D)” and inserting “subparagraph (E)”;
 8 and

9 (3) in paragraph (3)(B), in the first sentence,
 10 by striking “(D)” and inserting “(E)”.

11 **SEC. 5. REGISTRY FOR LEAD EXPOSURE AND ADVISORY**
 12 **COMMITTEE.**

13 (a) DEFINITIONS.—In this section:

14 (1) CITY.—The term “City” means a city ex-
 15 posed to lead contamination in the local drinking
 16 water system.

17 (2) COMMITTEE.—The term “Committee”
 18 means the Advisory Committee established under
 19 subsection (c).

20 (3) SECRETARY.—The term “Secretary” means
 21 the Secretary of Health and Human Services.

22 (b) LEAD EXPOSURE REGISTRY.—The Secretary
 23 shall establish within the Agency for Toxic Substances and
 24 Disease Registry or another relevant agency at the discre-
 25 tion of the Secretary, or establish through a grant award

1 or contract, a lead exposure registry to collect data on the
 2 lead exposure of residents of a City on a voluntary basis.

3 (c) ADVISORY COMMITTEE.—

4 (1) MEMBERSHIP.—

5 (A) IN GENERAL.—The Secretary shall es-
 6 tablish an Advisory Committee in coordination
 7 with the Director of the Centers for Disease
 8 Control and Prevention and other relevant
 9 agencies as determined by the Secretary con-
 10 sisting of Federal members and non-Federal
 11 members, and which shall include—

- 12 (i) an epidemiologist;
- 13 (ii) a toxicologist;
- 14 (iii) a mental health professional;
- 15 (iv) a pediatrician;
- 16 (v) an early childhood education ex-
 17 pert;
- 18 (vi) a special education expert;
- 19 (vii) a dietician; and
- 20 (viii) an environmental health expert.

21 (B) REQUIREMENTS.—Membership in the
 22 Committee shall not exceed 15 members and
 23 not less than ½ of the members shall be Fed-
 24 eral members.

1 (2) CHAIR.—The Secretary shall designate a
2 chair from among the Federal members appointed to
3 the Committee.

4 (3) TERMS.—Members of the Committee shall
5 serve for a term of not more than 3 years and the
6 Secretary may reappoint members for consecutive
7 terms.

8 (4) APPLICATION OF FACA.—The Committee
9 shall be subject to the Federal Advisory Committee
10 Act (5 U.S.C. App.).

11 (5) RESPONSIBILITIES.—The Committee shall,
12 at a minimum—

13 (A) review the Federal programs and serv-
14 ices available to individuals and communities
15 exposed to lead;

16 (B) review current research on lead poi-
17 soning to identify additional research needs;

18 (C) review and identify best practices, or
19 the need for best practices, regarding lead
20 screening and the prevention of lead poisoning;

21 (D) identify effective services, including
22 services relating to healthcare, education, and
23 nutrition for individuals and communities af-
24 fected by lead exposure and lead poisoning, in-
25 cluding in consultation with, as appropriate, the

1 lead exposure registry as established in sub-
2 section (b); and

3 (E) undertake any other review or activi-
4 ties that the Secretary determines to be appro-
5 priate.

6 (6) REPORT.—Annually for 5 years and there-
7 after as determined necessary by the Secretary or as
8 required by Congress, the Committee shall submit to
9 the Secretary, the Committees on Finance, Health,
10 Education, Labor, and Pensions, and Agriculture,
11 Nutrition, and Forestry of the Senate and the Com-
12 mittees on Education and the Workforce, Energy
13 and Commerce, and Agriculture of the House of
14 Representatives a report that includes—

15 (A) an evaluation of the effectiveness of
16 the Federal programs and services available to
17 individuals and communities exposed to lead;

18 (B) an evaluation of additional lead poi-
19 soning research needs;

20 (C) an assessment of any effective screen-
21 ing methods or best practices used or developed
22 to prevent or screen for lead poisoning;

23 (D) input and recommendations for im-
24 proved access to effective services relating to
25 healthcare, education, or nutrition for individ-

1 uals and communities impacted by lead expo-
 2 sure; and

3 (E) any other recommendations for com-
 4 munities affected by lead exposure, as appro-
 5 priate.

6 (d) MANDATORY FUNDING.—

7 (1) IN GENERAL.—On the date of enactment of
 8 this Act, out of any funds in the Treasury not other-
 9 wise appropriated, the Secretary of the Treasury
 10 shall transfer to the Secretary, to be available during
 11 the period of fiscal years 2016 through 2020—

12 (A) \$17,500,000 to carry out subsection
 13 (b); and

14 (B) \$2,500,000 to carry out subsection (c).

15 (2) RECEIPT AND ACCEPTANCE.—The Sec-
 16 retary shall be entitled to receive, shall accept, and
 17 shall use to carry out subsections (b) and (c) the
 18 funds transferred under subparagraphs (A) and (B)
 19 of paragraph (1), respectively, without further ap-
 20 propriation.

21 **SEC. 6. ADDITIONAL FUNDING FOR CERTAIN CHILDHOOD**
 22 **HEALTH PROGRAMS.**

23 (a) CHILDHOOD LEAD POISONING PREVENTION
 24 PROGRAM.—

1 (1) IN GENERAL.—On the date of enactment of
2 this Act, out of any funds in the Treasury not other-
3 wise appropriated, the Secretary of the Treasury
4 shall transfer to the Director of the Centers for Dis-
5 ease Control and Prevention, to be available during
6 the period of fiscal years 2017 and 2018,
7 \$10,000,000 for the childhood lead poisoning pre-
8 vention program authorized under section 317A of
9 the Public Health Service Act (42 U.S.C. 247b–1).

10 (2) RECEIPT AND ACCEPTANCE.—The Director
11 of the Centers for Disease Control and Prevention
12 shall be entitled to receive, shall accept, and shall
13 use to carry out the childhood lead poisoning preven-
14 tion program authorized under section 317A of the
15 Public Health Service Act (42 U.S.C. 247b–1) the
16 funds transferred under paragraph (1), without fur-
17 ther appropriation.

18 (b) HEALTHY HOMES PROGRAM.—

19 (1) IN GENERAL.—On the date of enactment of
20 this Act, out of any funds in the Treasury not other-
21 wise appropriated, the Secretary of the Treasury
22 shall transfer to the Secretary of Housing and
23 Urban Development, to be available during the pe-
24 riod of fiscal years 2017 and 2018, \$10,000,000 to

1 carry out the Healthy Homes Initiative of the De-
2 partment of Housing and Urban Development.

3 (2) RECEIPT AND ACCEPTANCE.—The Sec-
4 retary of Housing and Urban Development shall be
5 entitled to receive, shall accept, and shall use to
6 carry out the Healthy Homes Initiative of the De-
7 partment of Housing and Urban Development the
8 funds transferred under paragraph (1), without fur-
9 ther appropriation.

10 (c) HEALTHY START PROGRAM.—

11 (1) IN GENERAL.—On the date of enactment of
12 this Act, out of any funds in the Treasury not other-
13 wise appropriated, the Secretary of the Treasury
14 shall transfer to the Administrator of the Health Re-
15 sources and Services Administration, to be available
16 during the period of fiscal years 2017 and 2018,
17 \$10,000,000 to carry out the Healthy Start Initia-
18 tive under section 330H of the Public Health Serv-
19 ice Act (42 U.S.C. 254c–8).

20 (2) RECEIPT AND ACCEPTANCE.—The Adminis-
21 trator of the Health Resources and Services Admin-
22 istration shall be entitled to receive, shall accept,
23 and shall use to carry out the Healthy Start Initia-
24 tive under section 330H of the Public Health Serv-

1 ice Act (42 U.S.C. 254c–8) the funds transferred
2 under paragraph (1), without further appropriation.

3 **SEC. 7. REVIEW AND REPORT.**

4 (a) IN GENERAL.—Not later than 1 year after the
5 date of enactment of this Act, the Attorney General and
6 the Inspector General of the Environmental Protection
7 Agency shall submit to the Committees on Appropriations,
8 Environment and Public Works, and Homeland Security
9 and Governmental Affairs of the Senate and the Commit-
10 tees on Appropriations, Energy and Commerce, Transpor-
11 tation and Infrastructure, and Oversight and Government
12 Reform of the House of Representatives a report on the
13 status of any ongoing investigations into the Federal and
14 State response to the contamination of the drinking water
15 supply of the City of Flint, Michigan.

16 (b) REVIEW.—Not later than 30 days after the com-
17 pletion of the investigations described in subsection (a),
18 the Comptroller General of the United States shall com-
19 mence a review of issues that are not addressed by the
20 investigations and relating to—

21 (1) the adequacy of the response by the State
22 of Michigan and the City of Flint to the drinking
23 water crisis in Flint, Michigan, including the timeli-
24 ness and transparency of the response, as well as the

1 capacity of the State and City to manage the drink-
2 ing water system; and

3 (2) the adequacy of the response by Region 5
4 of the Environmental Protection Agency to the
5 drinking water crisis in Flint, Michigan, including
6 the timeliness and transparency of the response.

7 (c) CONTENTS OF REPORT.—Not later than 1 year
8 after commencing each review under subsection (b), the
9 Comptroller General of the United States shall submit to
10 Congress a report that includes—

11 (1) a statement of the principal findings of the
12 review; and

13 (2) recommendations for Congress and the
14 President to take any actions to prevent a similar
15 situation in the future and to protect public health.

16 **SEC. 8. OFFSET.**

17 None of the funds available to the Secretary of En-
18 ergy to provide any credit subsidy under subsection (d)
19 of section 136 of the Energy Independence and Security
20 Act of 2007 (42 U.S.C. 17013) as of the date of enact-
21 ment of this Act shall be obligated for new loan commit-
22 ments under that subsection on or after October 1, 2020.

○