

117TH CONGRESS
1ST SESSION

S. RES. 141

Recognizing the critical importance of access to reliable, clean drinking water for Native Americans and Alaska Natives and confirming the responsibility of the Federal Government to ensure such water access.

IN THE SENATE OF THE UNITED STATES

MARCH 25, 2021

Mr. BENNET (for himself, Mr. WYDEN, Ms. WARREN, Mrs. MURRAY, Mr. MERKLEY, Ms. CANTWELL, Mr. HEINRICH, Mr. KELLY, Mr. BOOKER, Mr. TESTER, and Mr. SCHATZ) submitted the following resolution; which was referred to the Committee on Indian Affairs

RESOLUTION

Recognizing the critical importance of access to reliable, clean drinking water for Native Americans and Alaska Natives and confirming the responsibility of the Federal Government to ensure such water access.

Whereas access to reliable, clean drinking water is an essential human need that is critical to the public health, well-being, educational attainment, and economic development of all communities in the United States;

Whereas many countries, along with the United Nations, have recognized the urgency of water access by passing laws or resolutions regarding the human right to water, including recognition of these needs among indigenous

peoples and establishing aggressive targets for achieving universal access to this basic service;

Whereas access to reliable, clean drinking water has long been a significant problem in many Tribal communities and in many Alaska Native Villages, such that nearly half of all Native American households still do not have access to reliable water sources, clean drinking water, and are significantly more likely than White households to lack indoor plumbing;

Whereas reliable, clean drinking water may be unavailable to these households for a number of reasons, including because—

- (1) there is no piped water system connecting to the house;
- (2) the water available to the household does not meet minimum protective standards;
- (3) the water infrastructure is deteriorating or insufficient; or
- (4) Indian Tribes face challenges in supporting the operation and maintenance needs of existing water infrastructure;

Whereas Federal programs administered through the Indian Health Service of the Department of Health and Human Services, the Environmental Protection Agency, the Department of Agriculture, and other Federal and State agencies have been unsuccessful in developing the infrastructure necessary to provide reliable, clean drinking water for some Tribal communities;

Whereas many Indian Tribes have significant unresolved claims for federally reserved water rights, many of which have been unresolved for decades and which may not be resolved for many years to come, due in part to the com-

plex and significant issues typically involved in water rights adjudication and settlements;

Whereas the development of water infrastructure in Tribal communities has frequently been conditioned on the settlement of such Tribal reserved water rights, and has been prevented or delayed by continuing uncertainty over the status of Tribal water rights, by the years-long process of Tribal water rights settlements, or by continued conflict over the quantification of Tribal reserved water rights in State water rights adjudications;

Whereas the quantity of water that would be required to supply reliable, clean drinking water to provide for the basic needs of the residents of Tribal communities and in Alaska Native Villages are typically only a small fraction of the total quantity of Tribal reserved water rights;

Whereas the trust responsibility of the Federal Government to Tribal nations requires the Federal Government to ensure the survival and welfare of Indian Tribes and people, and the failure to provide basic water service cannot be reconciled with this trust responsibility;

Whereas the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5301 et seq.) affirmed the trust responsibility of the Federal Government to support Tribal self-governance and self-determination, and these goals cannot be fully realized without addressing inequities such as ensuring access to reliable, clean drinking water for every Tribal community;

Whereas the ongoing COVID–19 pandemic has had a disproportionate impact on Native American people due to factors including persistent economic disadvantages in Tribal communities and in Alaska Native Villages, racial

inequity, lack of access to adequate health care, and lack of public health infrastructure, including access to running water; and

Whereas the COVID–19 pandemic has provided a stark reminder that access to reliable, clean drinking water to support basic hygiene is a matter of life or death for all citizens of the United States: Now, therefore, be it

1 *Resolved*, That—

2 (1) it is the sense of the Senate that—

3 (A) access to reliable, clean drinking water
4 in Tribal communities and in Alaska Native
5 Villages is an essential human need, is critical
6 to the health, well-being, and economic develop-
7 ment of people living on such communities and
8 in such villages, and is integral to maintaining
9 the public health of the entire United States;

10 (B) settlement or adjudication of Tribal
11 claims of reserved water rights is not and
12 should not be a prerequisite to the provision of
13 this basic human service to households located
14 in Tribal communities and in Alaska Native
15 Villages, nor should the provision of such basic
16 human services be used to leverage the resolu-
17 tion of Tribal reserved water rights and claims;
18 and

19 (C) the provision of reliable, clean drinking
20 water to support the domestic requirements of

1 Tribal members and Tribal communities is an
2 essential component of the Federal trust re-
3 sponsibility to Indian Tribes; and

4 (2) the Senate—

5 (A) calls upon the Federal Executive
6 Branch to work in collaboration with Tribal
7 governments and with any relevant State and
8 local jurisdictions to expedite the planning, de-
9 sign, development, and operation of the infra-
10 structure necessary to provide reliable, clean
11 drinking water in Tribal communities and in
12 Alaska Native Villages, and to inform Congress
13 of further authorizations and expenditures that
14 may be necessary to meet this objective;

15 (B) calls upon the Federal Executive
16 Branch to employ a “whole of government” ap-
17 proach to ensure the provision of reliable, clean
18 drinking water to households in Tribal commu-
19 nities and in Alaska Native Villages and to cre-
20 ate an interagency task force consisting of high-
21 level representatives from departments and
22 agencies with authority to provide water infra-
23 structure that will work to remove barriers, op-
24 timize funding, and make immediate and tan-
25 gible progress on meeting this objective and re-

1 port annually to Congress on such progress;
2 and

3 (C) calls upon the Federal Executive
4 Branch, State governments, and affected water
5 agencies to affirmatively support de-coupling
6 the planning, design, development, and oper-
7 ation of such infrastructure from the settlement
8 or adjudication of Tribal reserved water rights,
9 and to support the development of that infra-
10 structure necessary to provide reliable, clean
11 drinking water in Tribal communities inde-
12 pendent of such settlements or adjudications.

○