

110TH CONGRESS  
1ST SESSION

# S. 2200

To authorize the use of Federal funds for flexible financing of Indian tribal municipal, rural, and industrial water system construction projects by certain federally recognized Indian tribes.

---

## IN THE SENATE OF THE UNITED STATES

OCTOBER 18, 2007

Mr. CONRAD (for himself, Mr. JOHNSON, and Mr. TESTER) introduced the following bill; which was read twice and referred to the Committee on Indian Affairs

---

## A BILL

To authorize the use of Federal funds for flexible financing of Indian tribal municipal, rural, and industrial water system construction projects by certain federally recognized Indian tribes.

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 Water Re-  
5 sources Innovative Financing Act”.

1 **SEC. 2. FLEXIBLE FINANCING OF TRIBAL MUNICIPAL,**  
2 **RURAL, AND INDUSTRIAL WATER SYSTEM**  
3 **CONSTRUCTION PROJECTS.**

4 (a) FINDINGS.—Congress finds that—

5 (1) the use of Federal funds to issue and serv-  
6 ice debt incurred by an Indian tribe to pay the costs  
7 of Indian tribal municipal, rural, and industrial  
8 water system construction projects allows the  
9 projects to be built more quickly, which—

10 (A) effectively saves taxpayers millions of  
11 dollars in total project costs; and

12 (B) allows Indian tribes to benefit more  
13 quickly from fresh drinking water systems;

14 (2) the use of Federal funds for debt financing  
15 as described in paragraph (1) decreases the cost-es-  
16 calating effects of construction cost inflation and  
17 statutorily-mandated cost indexing of authorized In-  
18 dian tribal municipal, rural, and industrial water  
19 system construction projects;

20 (3) Indian tribes are authorized to leverage  
21 Federal funds for debt financing in other areas of  
22 infrastructure development, such as Indian roads  
23 projects pursuant to section 122 of title 23, United  
24 States Code;

1           (4) a growing market exists for debt financing  
2 as described in this subsection for Indian tribal in-  
3 frastructure projects; and

4           (5)(A) a Federal administrative ruling held  
5 that, in the case of 1 Indian tribe, debt financing  
6 costs for purposes of an authorized municipal, rural,  
7 or industrial water construction project were eligible  
8 for Federal reimbursement; and

9           (B) that ruling should be affirmed for all In-  
10 dian tribes.

11 (b) DEFINITIONS.—In this section:

12           (1) ELIGIBLE DEBT FINANCING INSTRU-  
13 MENT.—The term “eligible debt financing instru-  
14 ment” means a bond or other debt financing instru-  
15 ment (including a note, certificate, mortgage, or  
16 lease agreement) issued by an Indian tribe, the pro-  
17 ceeds of which are used for construction of an au-  
18 thorized Indian tribal municipal, rural, or industrial  
19 water project.

20           (2) INDIAN TRIBE.—The term “Indian tribe”  
21 has the meaning given the term in section 4 of the  
22 Indian Self-Determination and Education Assistance  
23 Act (25 U.S.C. 450b).

24           (3) SECRETARY.—The term “Secretary” means  
25 the Secretary of the Interior.

1           (c) FEDERAL REIMBURSEMENT.—Subject to sub-  
2 sections (d) and (e), the Secretary may reimburse an In-  
3 dian tribe for expenses and costs incurred by the Indian  
4 tribe for—

5           (1) interest payments under an eligible debt fi-  
6 nancing instrument;

7           (2) the retirement of principal of an eligible  
8 debt financing instrument;

9           (3) the cost of the issuance of an eligible debt  
10 financing instrument;

11           (4) the cost of insurance or similar credit sup-  
12 port for an eligible debt financing instrument; or

13           (5) any other cost incidental to the sale and  
14 servicing of an eligible debt financing instrument, as  
15 determined by the Secretary.

16           (d) CONDITION.—The Secretary may reimburse an  
17 Indian tribe under subsection (c) with respect to a project  
18 funded by an eligible debt financing instrument if the  
19 project is being carried out by the Indian tribe pursuant  
20 to a contract or cooperative agreement with the Secretary  
21 in accordance with the Indian Self-Determination and  
22 Education Assistance Act (25 U.S.C. 450 et seq.).

23           (e) FEDERAL SHARE.—The Federal share of the cost  
24 of a project under this section shall not exceed the Federal

1 share of the cost of the project as determined under the  
2 authorizing statute of the project.

3 (f) SAVINGS CLAUSE.—Notwithstanding any other  
4 provision of law, the eligibility of an eligible debt financing  
5 instrument for reimbursement under subsection (c) shall  
6 not—

7 (1) be considered to be a commitment, guar-  
8 antee, or obligation on the part of the United States  
9 to provide for payment of principal or interest on  
10 the eligible debt financing instrument; or

11 (2) create any right of a third party against the  
12 United States for payment under the eligible debt fi-  
13 nancing instrument.

○