



UNIVERSAL ACCESS TO CLEAN WATER FOR TRIBAL COMMUNITIES

**Hearing of the Water, Oceans and Wildlife Subcommittee
of the House of Representatives Natural Resources Committee
May 12, 2022**

**Comments on
TRIBAL ACCESS TO CLEAN WATER ACT OF 2022
[H.R. 7632](#)**

Background

Native American households are [19 times](#) more likely than white households to lack access to clean drinking water through indoor plumbing. The deprivation of this basic service affects over half a million residents of tribal communities and constitutes one of the fundamental inequities of our time.

The [public health impacts](#) of not having clean water are well documented. Native Americans experienced the [highest hospitalization and death rates from COVID-19](#) of any ethnic group. Tribal elders—who are often considered wisdom keepers and critical to ensuring cultural continuity—have been particularly hard hit with death rates three to ten times higher than white persons of similar ages. Such devastating loss has threatened the survival of indigenous culture.

Congressional Efforts to Provide Clean Water Access

Legislation introduced in the Senate, the [Tribal Access to Clean Water Act of 2021 \(S.2369\)](#) originally proposed comprehensive funding for the four main federal agencies that support tribal drinking water programs:

1. Indian Health Service (IHS)
2. Environmental Protection Agency (EPA)
3. Bureau of Reclamation (BOR)
4. U.S. Department of Agriculture – Rural Development (USDA)

The bipartisan [Infrastructure Investment and Jobs Act \(IIJA\)](#) included some of the funding proposed in S. 2369 for IHS, EPA, and BOR. The IIJA provides \$3.5 billion for IHS's [Sanitation Facilities Construction Program](#), funding that will be used to build and repair water infrastructure in Indian country after decades of neglect and that is already being deployed. The IIJA also provides substantial funding for EPA's State Revolving Funds that can be used to support tribal water and wastewater systems through the [tribal-set-aside programs](#) (with a total of approximately \$500 million in those programs). Finally, the IIJA appropriated \$1 billion to BOR to support legacy [rural water supply projects](#) which include some Tribal components.

Remaining Needs to Achieve Universal Access to Clean Water in Indian Country

The IIJA is a huge step forward in addressing this problem. However, after decades of chronic underfunding, more is necessary to provide a complete solution to clean drinking water in Indian Country. This includes not only construction funding but also essential support for the appropriate operation and maintenance (O&M) and the development of tribal capacity to plan, design, construct, and operate these systems. In addition, there are acknowledged gaps in the scope of funding that IHS has provided in the past that must be filled. All the following components are included in H.R. 7632 and are critical to ensure that the full benefit of the historic investment made in water infrastructure in Indian country is realized.

- a. **Operation and Maintenance Support.** New investment in infrastructure must be protected with appropriate O&M support of these systems. If O&M support is insufficient, water infrastructure will deteriorate at a faster than expected pace and overall costs will increase as the infrastructure ages. Tribal water systems present unique challenges, such as managing high capital and operating costs in remote locations and finding and retaining qualified water system operators. The Indian Health Service has been authorized to provide O&M assistance since the 1950s, but this authority has never been funded. It should be. This is not a double-dip for Native American water infrastructure—it represents the necessary human capital component that will make the infrastructure investment effective and permanent. Section 4(d) of H.R. 7632 provides for this support.
- b. **Technical Assistance to Tribes.** There is also a dire and documented need for technical assistance to allow tribes to navigate the complex array of federal programs and assume leadership roles in solving the water access gap. Grant writing assistance, engineering evaluation and design of water infrastructure systems, and training of certified operators are all critical for ensuring that the infrastructure funding is utilized expeditiously and appropriately. IHS and the Bureau of Reclamation both have technical assistance programs that are currently underfunded and Sections 4(c) and 6(c) appropriate funding for these existing programs.
- c. **Funding to Provide Water to Essential Community Facilities.** The Indian Health Service is authorized to provide domestic and community water supplies to Indian homes and communities. No doubt because of the very limited amounts of funding for the IHS

Sanitation Facilities Construction Program in the past, IHS has not provided funding to support the extension of drinking water infrastructure to community facilities such as schools, hospitals, nursing homes, Tribal offices, and post offices in the past, and has looked to Tribes or other funding sources to put up the necessary funds. Section 4(a) and (b) appropriates funding to allow IHS to provide water and sanitation services to these structures that are essential to the life of the Native community and provide indispensable educational, economic, and community services.

- d. Finally, **each agency has its own statutory authority and expertise that can provide a critical component of a complete solution.** While the IIJA funding appropriated to IHS and EPA can be used to make substantial progress in Indian country to provide safe and clean water access, USDA has grant programs that are able to assist tribal communities when IHS and EPA cannot. Indeed, in the past some of the greatest successes have been accomplished when agencies work together to combine their expertise and pool federal funding. The Bureau of Reclamation has authority to provide complete water systems for rural communities and the expertise to plan and design such projects.

[The Tribal Access to Clean Water Act of 2022, H.R. 7632](#), co-sponsored by Rep. Joe Neguse thirteen House colleagues — will help fill essential gaps in the funding provided by IIJA. Eliminating the provisions superseded by the IIJA, this bill mirrors its Senate companion, S.2369, to fund:

1. O&M by appropriating \$500 million to IHS’s Sanitation Facilities Construction Program.
2. Technical assistance by appropriating \$150 million to IHS and \$90 million to the Bureau of Reclamation for each agency’s Native American technical assistance program.
3. Provision of water and sanitation services to essential community facilities by appropriating \$100 million to IHS for this purpose.
4. Additional agency programs that can support tribal water projects by appropriating \$500 million to USDA’s water and waste facility loans and grants program, \$1 billion to the Bureau of Reclamation’s rural water tribal grant program.

It must be emphasized that the appropriations in H.R. 7632 are all for programs that are already authorized (Reclamation’s Rural Water Supply program requires reauthorization as its original authorization has lapsed, which is also included in the bill). These appropriations are necessary to allow realization of the investment in Tribal water infrastructure provided by the IIJA. Without this funding for the human resources that are part of the planning, construction, and operation of these Tribal systems, they risk being less suited for the specific needs of the Tribes, will tend to deteriorate more quickly, and the complete benefit of the historic investment of the IIJA will not be realized.

The attached chart provides a summary of the funding for drinking water infrastructure for Tribal communities in S. 2369, the IIJA, and H.R. 7632.

**Comparison of 117th Congress Legislation on
Access to Clean Drinking Water for Tribal Communities**

	<u>S. 2369</u>	<u>Bipartisan Infrastructure Law (IIJA, H.R. 3684)</u>	<u>H.R. 7632</u>
Indian Health Service			
Sanitation Facilities Construction Program	\$3.4 B	\$3.5 B	
Operation and Maintenance Assistance	\$500 M		\$500 M
Technical Assistance & Training	\$150 M		\$150 M
Essential Community Facilities			\$100 M
USDA Rural Development			
Water and Waste Facility Loans and Grants	\$500 M		\$500 M
Environmental Protection Agency			
Clean Water State Revolving Fund – Tribal Set-Aside	\$100 M	≈ \$240 M	
Safe Drinking Water State Revolving Fund – Tribal Set-Aside	\$100 M	≈ \$240 M	
Bureau of Reclamation			
Rural Water Supply – Legacy Projects	\$1.0 B	\$1.0 B	
Rural Water Supply – Tribal Grant Program	\$1.0 B		\$1.0 B
Native American Technical Assistance	\$90 M		\$90 M