

117TH CONGRESS  
1ST SESSION

# S. 722

To amend the Energy Policy Act of 2005 to establish a program to provide grants and loan guarantees to improve the energy efficiency of publicly owned wastewater treatment facilities, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

MARCH 11, 2021

Mr. MERKLEY introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

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## A BILL

To amend the Energy Policy Act of 2005 to establish a program to provide grants and loan guarantees to improve the energy efficiency of publicly owned wastewater treatment facilities, 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 “Wastewater Efficiency  
5 and Treatment Act of 2021”.

6 **SEC. 2. FINDINGS.**

7 Congress finds that—

1           (1) municipalities face high energy costs to op-  
2           erate and maintain the wastewater treatment facili-  
3           ties of the municipalities;

4           (2) energy intensive operations at wastewater  
5           treatment facilities can include aeration, influent  
6           pumping, aerobic digestion, anaerobic digestion,  
7           building operations, and other critical components of  
8           the waste treatment process;

9           (3) the utility energy costs of a municipality  
10          can exceed 30 percent of total energy costs of the  
11          municipality;

12          (4) energy costs are part of the calculus in de-  
13          termining ratepayer rates;

14          (5) wastewater treatment facilities that use an-  
15          aerobic digestion can capture methane for conversion  
16          into energy for onsite power production, heating,  
17          transportation fuel, export of renewable natural gas  
18          or electricity, and other uses;

19          (6) the process described in paragraph (5) may  
20          be enhanced through innovative technologies, such  
21          as codigestion of fats, oils and grease, food waste,  
22          and other organic waste;

23          (7) all wastewater treatment facilities, regard-  
24          less of type of treatment or size, can benefit from

1 energy audits and installation of energy efficient  
2 components;

3 (8) investment in recovery technologies for use  
4 by wastewater treatment facilities may result in—

5 (A) reduced energy costs for the waste-  
6 water treatment facility;

7 (B) improved energy resiliency of the  
8 wastewater treatment facility; and

9 (C) potential revenue generating streams  
10 for the municipality that owns the wastewater  
11 treatment facility;

12 (9) many existing Federal programs relating to  
13 water infrastructure remain inaccessible because mu-  
14 nicipality officials and utility managers may not  
15 have resources—

16 (A) to upgrade the infrastructure of the  
17 wastewater treatment facilities of the munic-  
18 ipality for energy efficiency; or

19 (B) to transition wastewater treatment fa-  
20 cilities of the municipality towards energy resil-  
21 iency; and

22 (10) this Act will substantially benefit waste-  
23 water treatment facilities in the United States by  
24 addressing the gap in funding for wastewater treat-  
25 ment facility projects for large and small municipali-

1 ties by making loan guarantees and grants available  
 2 to municipalities to reduce borrowing costs and ac-  
 3 celerate water infrastructure investment.

4 **SEC. 3. WATER AND ENERGY EFFICIENCY PROGRAM.**

5 (a) WATER AND ENERGY EFFICIENCY PROGRAM.—  
 6 The Energy Policy Act of 2005 is amended by inserting  
 7 after section 1705 (42 U.S.C. 16516) the following:

8 **“SEC. 1706. WATER AND ENERGY EFFICIENCY PROGRAM.**

9 “(a) PURPOSE.—The purpose of this section is to  
 10 provide grants and guarantees—

11 “(1) to improve energy efficiency, energy pro-  
 12 duction, and nutrient recovery at wastewater treat-  
 13 ment facilities;

14 “(2) to generate energy from waste in the treat-  
 15 ment process of wastewater treatment facilities; and

16 “(3) to reduce the energy consumption of eligi-  
 17 ble municipalities and Tribes in which wastewater  
 18 treatment facilities are located.

19 “(b) DEFINITIONS.—In this section:

20 “(1) ELIGIBLE MUNICIPALITY OR TRIBE.—The  
 21 term ‘eligible municipality or Tribe’ means a munici-  
 22 pality or Indian Tribe determined to be eligible  
 23 under the criteria developed under subsection (c)(2).

24 “(2) INDIAN TRIBE.—The term ‘Indian Tribe’  
 25 has the meaning given the term ‘Indian tribe’ in sec-

1 tion 4 of the Indian Self-Determination and Edu-  
2 cation Assistance Act (25 U.S.C. 5304).

3 “(3) PROGRAM.—The term ‘Program’ means  
4 the Water and Energy Efficiency Program estab-  
5 lished under subsection (c)(1).

6 “(4) WASTEWATER TREATMENT FACILITY.—  
7 The term ‘wastewater treatment facility’ has the  
8 meaning given the term ‘treatment works’ in section  
9 212 of the Federal Water Pollution Control Act (33  
10 U.S.C. 1292).

11 “(c) ESTABLISHMENT.—

12 “(1) IN GENERAL.—Not later than 180 days  
13 after the date of enactment of this section, notwith-  
14 standing section 1703, the Secretary shall establish  
15 a program, to be known as the ‘Water and Energy  
16 Efficiency Program’, to provide—

17 “(A) grants under subsection (d); and

18 “(B) guarantees under subsection (e).

19 “(2) CRITERIA.—The Secretary shall develop  
20 application criteria for providing grants and guaran-  
21 tees under the Program, including criteria to deter-  
22 mine whether a municipality or Indian Tribe is eligi-  
23 ble for a grant or guarantee under the Program.

24 “(d) WATER EFFICIENCY GRANTS.—

1           “(1) IN GENERAL.—Under the Program, the  
2 Secretary, acting through the Assistant Secretary  
3 for Energy Efficiency and Renewable Energy, shall  
4 award grants to eligible entities described in para-  
5 graph (2) to carry out 1 or more eligible projects de-  
6 scribed in paragraph (3).

7           “(2) ELIGIBLE ENTITIES.—An entity eligible to  
8 receive a grant under this subsection is a small pub-  
9 licly wastewater treatment facility that serves—

10                   “(A) a population of not more than  
11 10,000; or

12                   “(B) a disadvantaged community, as deter-  
13 mined by the Secretary.

14           “(3) ELIGIBLE PROJECTS.—An eligible project  
15 referred to in paragraph (1) is—

16                   “(A) a project to carry out an energy effi-  
17 ciency audit of a wastewater treatment facility  
18 to identify opportunities in the operations of the  
19 wastewater treatment facility—

20                           “(i) to reduce electrical demand; or

21                           “(ii) to reduce losses in the waste-  
22 water treatment facility system; and

23                   “(B) a project to replace equipment or to  
24 carry out other small capital projects to update  
25 components of a wastewater treatment facility

1 based on the results of an energy efficiency  
2 audit of the wastewater treatment facility.

3 “(4) AMOUNT OF GRANT.—The amount of a  
4 grant made under this subsection shall not exceed  
5 \$25,000.

6 “(5) AUTHORIZATION OF APPROPRIATIONS.—  
7 There is authorized to be appropriated to the Sec-  
8 retary to carry out this subsection \$5,000,000 for  
9 fiscal year 2021 and each fiscal year thereafter, of  
10 which not more than 4 percent each fiscal year shall  
11 be used for administrative costs.

12 “(e) WATER AND ENERGY EFFICIENCY GUARAN-  
13 TEES.—

14 “(1) IN GENERAL.—Under the Program, the  
15 Secretary shall provide guarantees to eligible municipi-  
16 palities and Tribes to carry out 1 or more eligible  
17 projects described in paragraph (2).

18 “(2) ELIGIBLE PROJECTS.—An eligible project  
19 referred to in paragraph (1) is—

20 “(A) a project to convert waste in the  
21 treatment process of the wastewater treatment  
22 facility into renewable fuels, biosolids, or other  
23 byproducts, including—

24 “(i) predigestion solids treatment;

1 “(ii) installation of anaerobic digest-  
2 ers;

3 “(iii) biogas capture;

4 “(iv) energy transfer;

5 “(v) enhanced nutrient recovery;

6 “(vi) material feedstocks;

7 “(vii) facility upgrades and retrofits  
8 necessary to create or improve waste-to-en-  
9 ergy systems; and

10 “(viii) other emerging technologies  
11 that transform waste to energy; and

12 “(B) a project that is being carried out  
13 pursuant to an existing plan that, as deter-  
14 mined by the Secretary, will assist in  
15 transitioning a wastewater treatment facility to-  
16 wards the use of energy-efficient technologies.

17 “(3) COVERED COSTS.—A guarantee provided  
18 under this subsection may be used for—

19 “(A) predevelopment costs associated with  
20 the eligible project or existing water and waste-  
21 water systems that are part of the eligible  
22 project, including energy assessments; and

23 “(B) construction and equipment costs in-  
24 curred in carrying out an eligible project under  
25 this subsection.



1           “(4) ADDITIONAL ACTIVITY.—In providing  
2           guarantees under this subsection, the Secretary shall  
3           promote technologies to reduce pollution in waste-  
4           water, including enhanced nutrient recovery and  
5           other innovative technologies.

6           “(f) SMALL-SCALE EXTENSION SERVICES PRO-  
7           GRAM.—In carrying out the Program, the Secretary shall  
8           establish a small-scale extension services program to pro-  
9           vide assistance to rural communities through grants, out-  
10          reach, training, and technical assistance regarding energy-  
11          efficient technologies at wastewater treatment facilities in  
12          eligible municipalities and Tribes.

13          “(g) ADMINISTRATION.—

14                 “(1) EFFECT ON STATE, TRIBAL, AND LOCAL  
15                 PERMITS.—The provision of a grant or guarantee  
16                 for an eligible project under the Program shall not—

17                         “(A) relieve any recipient of the grant or  
18                         guarantee of any obligation to obtain any re-  
19                         quired State, local, or Tribal permit or approval  
20                         with respect to the project;

21                         “(B) limit the right of any unit of State,  
22                         local, or Tribal government to approve or regu-  
23                         late any rate of return on private equity in-  
24                         vested in the project; or

1           “(C) otherwise supersede any State, local,  
2           or Tribal law (including any regulations) appli-  
3           cable to the construction or operation of the  
4           project.

5           “(2) CLEAN WATER ACT.—Nothing in this sec-  
6           tion precludes, preempts, or supersedes any require-  
7           ment under the Federal Water Pollution Control Act  
8           (33 U.S.C. 1251 et seq.) (commonly referred to as  
9           the “Clean Water Act”).

10          “(h) REPORTS.—As soon as practicable after the end  
11         of each fiscal year for which amounts are made available  
12         to carry out this section, the Secretary shall publish on  
13         a dedicated, publicly accessible internet website informa-  
14         tion describing—

15                 “(1) with respect to that fiscal year—

16                         “(A) each application received for assist-  
17                         ance under the Program;

18                         “(B) a list of the projects selected for as-  
19                         sistance under the Program, including—

20                                 “(i) a description of each project;

21                                 “(ii) the amount of financial assist-  
22                                 ance provided for each project; and

23                                 “(iii) the basis for the selection of  
24                                 each project with respect to the require-  
25                                 ments of this section; and

1           “(C) an overview of technical assistance  
2           and outreach activities provided during that fis-  
3           cal year to—

4                   “(i) each eligible municipality and  
5                   Tribe; and

6                   “(ii) wastewater treatment facilities  
7                   serving populations of not more than  
8                   10,000; and

9           “(2) the technical assistance and outreach ac-  
10           tivities proposed to be provided over the next 2 fiscal  
11           years to the entities described in clauses (i) through  
12           (iii) of paragraph (1)(C).”.

13           (b) CLERICAL AMENDMENT.—The table of contents  
14           for the Energy Policy Act of 2005 (Public Law 109–58;  
15           119 Stat. 604; 123 Stat. 145) is amended by inserting  
16           after the item relating to section 1705 the following:

“Sec. 1706. Water and Energy Efficiency Program.”.

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