

115TH CONGRESS
1ST SESSION

S. 1695

To establish centers of excellence for innovative stormwater control infrastructure, and for other purposes.

IN THE SENATE OF THE UNITED STATES

AUGUST 1, 2017

Mr. UDALL (for himself and Mr. DURBIN) introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

A BILL

To establish centers of excellence for innovative stormwater control infrastructure, 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 “Innovative Stormwater
5 Infrastructure Act of 2017”.

6 **SEC. 2. FINDINGS.**

7 Congress finds that—

8 (1) many water resources in the United States
9 are declining, particularly in urban and agricultural
10 areas;

1 (2) the decline of water resources is the result
2 of—

3 (A) an increase in population, water con-
4 sumption, agricultural production, and imper-
5 meable surfaces; and

6 (B) the negative effects of urbanization,
7 commercial and industrial activities, and in-
8 creasing and persistent droughts; and

9 (3) an October 2008 study by the National Re-
10 search Council found that some of the benefits of in-
11 novative stormwater control infrastructure include—

12 (A) increased water supplies;

13 (B) the creation of jobs;

14 (C) cost savings; and

15 (D) a reduction of stormwater runoff, sur-
16 face water discharge, stormwater pollution, and
17 stormwater flows to protect and restore natural
18 hydrology, meeting local conditions to the max-
19 imum extent feasible.

20 **SEC. 3. DEFINITIONS.**

21 In this Act:

22 (1) ADMINISTRATOR.—The term “Adminis-
23 trator” means the Administrator of the Environ-
24 mental Protection Agency.

1 (2) CENTER.—The term “center” means a cen-
 2 ter of excellence for innovative stormwater control
 3 infrastructure established under section 4(a).

4 (3) ELIGIBLE ENTITY.—The term “eligible enti-
 5 ty” means—

6 (A) a State, tribal, or local government; or

7 (B) a local, regional, or other entity that
 8 manages stormwater, drinking water resources,
 9 or wastewater resources.

10 (4) ELIGIBLE INSTITUTION.—

11 (A) IN GENERAL.—The term “eligible in-
 12 stitution” means an institution of higher edu-
 13 cation (as defined in section 101 of the Higher
 14 Education Act of 1965 (20 U.S.C. 1001)) or a
 15 research institution that has demonstrated ex-
 16 cellence in innovative stormwater control infra-
 17 structure by—

18 (i) conducting research on innovative
 19 stormwater control infrastructure to deter-
 20 mine the means by which innovative infra-
 21 structure reduces stormwater runoff, en-
 22 hances and protects drinking water
 23 sources, and improves water quality;

24 (ii) developing and disseminating in-
 25 formation regarding the means by which

1 an organization can use innovative
2 stormwater control infrastructure;

3 (iii) providing technical assistance to
4 an organization for an innovative
5 stormwater control infrastructure project;

6 (iv) developing best practices stand-
7 ards for innovative stormwater control in-
8 frastructure;

9 (v) providing job training relating to
10 innovative stormwater control infrastruc-
11 ture;

12 (vi) developing course curricula for—

13 (I) elementary schools (as defined
14 in section 8101 of the Elementary and
15 Secondary Education Act of 1965 (20
16 U.S.C. 7801));

17 (II) secondary schools (as defined
18 in section 8101 of the Elementary and
19 Secondary Education Act of 1965 (20
20 U.S.C. 7801));

21 (III) institutions of higher edu-
22 cation (as defined in section 101 of
23 the Higher Education Act of 1965 (20
24 U.S.C. 1001)); or

25 (IV) vocational schools;

- 1 (vii) training students regarding inno-
 2 vative stormwater control infrastructure; or
 3 (viii) providing information to the
 4 Federal Government or State, tribal, and
 5 local governments regarding the implemen-
 6 tation of innovative stormwater control in-
 7 frastructure.

8 (B) ASSOCIATED DEFINITION.—For pur-
 9 poses of subparagraph (A), the term “research
 10 institution” means an entity that is—

- 11 (i) described in section 501(c)(3) of
 12 the Internal Revenue Code of 1986;
 13 (ii) exempt from tax under section
 14 501(a) of the Internal Revenue Code of
 15 1986; and
 16 (iii) organized and operated for re-
 17 search purposes.

18 (5) INDIAN TRIBE.—The term “Indian tribe”
 19 has the meaning given the term in section 518(h) of
 20 the Federal Water Pollution Control Act (33 U.S.C.
 21 1377(h)).

22 (6) INNOVATIVE STORMWATER CONTROL INFRA-
 23 STRUCTURE.—

24 (A) IN GENERAL.—The term “innovative
 25 stormwater control infrastructure” means any

1 green infrastructure stormwater management
2 technique that—

3 (i) uses natural systems or engineered
4 systems that mimic natural processes to
5 infiltrate, evapotranspire, or capture
6 stormwater; and

7 (ii) preserves, enhances, or mimics
8 natural hydrology to protect or restore
9 water quality.

10 (B) INCLUSIONS.—The term “innovative
11 stormwater control infrastructure” includes—

12 (i) methods that promote absorption,
13 uptake, percolation, evapotranspiration,
14 and filtration by soil and plant life; and

15 (ii) the preservation or restoration
16 of—

17 (I) natural topography, including
18 hills, plains, ravines, and shorelines;

19 (II) interconnected networks of
20 natural land that protect essential ec-
21 ological functions critical for water
22 quality;

23 (III) ecological function, includ-
24 ing forests, grasslands, and deserts;

1 (IV) bodies of water, including
 2 lakes, flood plains, headwaters, and
 3 wetlands; and

4 (V) native soil characteristics of
 5 composition, structure, and
 6 transmissivity.

7 (7) STATE.—The term “State” means—

8 (A) each of the several States of the
 9 United States;

10 (B) the District of Columbia;

11 (C) the Commonwealth of Puerto Rico;

12 (D) Guam;

13 (E) American Samoa;

14 (F) the Commonwealth of the Northern
 15 Mariana Islands;

16 (G) the Federated States of Micronesia;

17 (H) the Republic of the Marshall Islands;

18 (I) the Republic of Palau; and

19 (J) the United States Virgin Islands.

20 **SEC. 4. CENTERS OF EXCELLENCE FOR INNOVATIVE**
 21 **STORMWATER CONTROL INFRASTRUCTURE.**

22 (a) ESTABLISHMENT OF CENTERS.—

23 (1) IN GENERAL.—The Administrator shall pro-
 24 vide grants, on a competitive basis, to eligible insti-
 25 tutions to establish and maintain not less than 3,

1 and not more than 5, centers of excellence for inno-
2 vative stormwater control infrastructure, to be lo-
3 cated in various regions throughout the United
4 States.

5 (2) GENERAL OPERATION.—Each center
6 shall—

7 (A) conduct research on innovative
8 stormwater control infrastructure that is rel-
9 evant to the geographical region in which the
10 center is located, including stormwater and
11 sewer overflow reduction, other approaches to
12 water resource enhancement, and other environ-
13 mental, economic, and social benefits;

14 (B) develop manuals and establish industry
15 standards on best management practices relat-
16 ing to State, tribal, local, and commercial inno-
17 vative stormwater control infrastructure for use
18 by State, tribal, and local governments and the
19 private sector;

20 (C) develop and administer testing and
21 evaluation protocols to measure and verify the
22 performance of stormwater infrastructure prod-
23 ucts and practices;

24 (D) provide information regarding research
25 conducted under subparagraph (A), manuals

1 developed under subparagraph (B), and testing
2 and evaluation performed under subparagraph
3 (C) to the national electronic clearinghouse cen-
4 ter for publication on the Internet website es-
5 tablished under subsection (c) to provide to the
6 Federal Government and State, tribal, and local
7 governments and the private sector information
8 regarding innovative stormwater control infra-
9 structure;

10 (E) provide technical assistance to State,
11 tribal, and local governments to assist with the
12 construction, operation, and maintenance of in-
13 novative stormwater control infrastructure
14 projects;

15 (F) collaborate with institutions of higher
16 education and private and public organizations
17 in the geographical region in which the center
18 is located on innovative stormwater control in-
19 frastructure research and technical assistance
20 projects;

21 (G) assist institutions of higher education,
22 secondary schools, and vocational schools to de-
23 velop innovative stormwater control infrastruc-
24 ture curricula;

1 (H) provide training regarding innovative
 2 stormwater control infrastructure to institutions
 3 of higher education and professional schools;

4 (I) evaluate regulatory and policy issues
 5 relating to innovative stormwater control infra-
 6 structure; and

7 (J) coordinate with the other centers to
 8 avoid duplication of efforts.

9 (b) APPLICATION.—To be eligible to receive a grant
 10 under this section, an eligible institution shall prepare and
 11 submit to the Administrator an application at such time,
 12 in such form, and containing such information as the Ad-
 13 ministrator may require.

14 (c) NATIONAL ELECTRONIC CLEARINGHOUSE CEN-
 15 TER.—Of the centers established under subsection (a)(1),
 16 1 shall—

17 (1) be designated as the “national electronic
 18 clearinghouse center”; and

19 (2) in addition to the other functions of that
 20 center—

21 (A) develop, operate, and maintain an
 22 Internet website and a public database that
 23 contains information relating to innovative
 24 stormwater control infrastructure; and

1 (B) post to the website information from
2 all centers.

3 **SEC. 5. INNOVATIVE STORMWATER CONTROL INFRASTRUC-**
4 **TURE PROJECT GRANTS.**

5 (a) GRANT AUTHORITY.—The Administrator shall
6 provide grants, on a competitive basis, to eligible entities
7 to carry out innovative stormwater control infrastructure
8 projects in accordance with this section.

9 (b) INNOVATIVE STORMWATER CONTROL INFRA-
10 STRUCTURE PROJECTS.—

11 (1) PLANNING AND DEVELOPMENT GRANTS.—
12 The Administrator may make planning and develop-
13 ment grants under this section for the following
14 projects:

15 (A) Planning and designing innovative
16 stormwater control infrastructure projects, in-
17 cluding engineering surveys, landscape plans,
18 maps, and implementation plans.

19 (B) Identifying and developing standards
20 and revisions to local zoning, building, or other
21 local codes necessary to accommodate innova-
22 tive stormwater control infrastructure projects.

23 (C) Identifying and developing fee struc-
24 tures to provide financial support for design, in-

1 stallation, and operations and maintenance of
2 innovative stormwater control infrastructure.

3 (D) Developing training and educational
4 materials regarding innovative stormwater con-
5 trol infrastructure for distribution to—

6 (i) individuals and entities with appli-
7 cable technical knowledge; and

8 (ii) the public.

9 (E) Developing an innovative stormwater
10 control infrastructure portfolio standard pro-
11 gram described in section 6(e).

12 (2) IMPLEMENTATION GRANTS.—The Adminis-
13 trator may make implementation grants under this
14 section for the following projects:

15 (A) Installing innovative stormwater con-
16 trol infrastructure.

17 (B) Protecting or restoring interconnected
18 networks of natural areas that protect water
19 quality.

20 (C) Monitoring and evaluating the environ-
21 mental, economic, or social benefits of innova-
22 tive stormwater control infrastructure.

23 (D) Implementing a best practices stand-
24 ard for an innovative stormwater control infra-
25 structure program.

1 (E) Implementing an innovative
2 stormwater control infrastructure portfolio
3 standard program described in section 6(e).

4 (c) APPLICATION.—Except as otherwise provided in
5 this Act, to be eligible to receive a grant under this section,
6 an eligible entity shall prepare and submit to the Adminis-
7 trator an application at such time, in such form, and con-
8 taining such information as the Administrator may re-
9 quire, including, as applicable—

10 (1) a description of the innovative stormwater
11 control infrastructure project;

12 (2) a plan for monitoring the impacts of the in-
13 novative stormwater control infrastructure project
14 on the water quality and quantity;

15 (3) an evaluation of other environmental, eco-
16 nomic, and social benefits of the innovative
17 stormwater control infrastructure project; and

18 (4) a plan for the long-term operation and
19 maintenance of the innovative stormwater control in-
20 frastructure project.

21 (d) ADDITIONAL REQUIREMENT FOR INNOVATIVE
22 STORMWATER CONTROL INFRASTRUCTURE PORTFOLIO
23 STANDARD PROJECT.—In addition to an application
24 under subsection (c), a State or Indian tribe applying for
25 a grant for an innovative stormwater control infrastruc-

1 ture portfolio standard program described in section 6(e)
 2 shall prepare and submit to the Administrator a schedule
 3 of increasing minimum percentages of the annual water
 4 to be managed using innovative stormwater control infra-
 5 structure under the program.

6 (e) PRIORITY.—In making grants under this section,
 7 the Administrator shall give priority to applications sub-
 8 mitted on behalf of—

9 (1) a community that—

10 (A) has combined storm and sanitary sew-
 11 ers in the collection system of the community;
 12 or

13 (B) is a low-income or disadvantaged com-
 14 munity, as determined by the Administrator; or

15 (2) an eligible entity that will use not less than
 16 10 percent of the grant to provide service to a low-
 17 income or disadvantaged community, as determined
 18 by the Administrator.

19 (f) MAXIMUM AMOUNTS.—

20 (1) PLANNING AND DEVELOPMENT GRANTS.—

21 (A) SINGLE GRANT.—The amount of a sin-
 22 gle planning and development grant provided
 23 under this section shall be not more than
 24 \$200,000.

1 (B) AGGREGATE AMOUNT.—The total
2 amount of all planning and development grants
3 provided under this section for a fiscal year
4 shall be not more than $\frac{1}{3}$ of the total amount
5 made available to carry out this section.

6 (2) IMPLEMENTATION GRANTS.—

7 (A) SINGLE GRANT.—The amount of a sin-
8 gle implementation grant provided under this
9 section shall be not more than \$3,000,000.

10 (B) AGGREGATE AMOUNT.—The total
11 amount of all implementation grants provided
12 under this section for a fiscal year shall be not
13 more than $\frac{2}{3}$ of the total amount made avail-
14 able to carry out this section.

15 (g) FEDERAL SHARE.—

16 (1) IN GENERAL.—Except as provided in para-
17 graph (3), the Federal share of a grant provided
18 under this section shall not exceed 65 percent of the
19 total project cost.

20 (2) CREDIT FOR IMPLEMENTATION GRANTS.—

21 The Administrator shall credit toward the non-Fed-
22 eral share of the cost of an implementation project
23 carried out under this section the cost of planning,
24 design, and construction work completed for the

1 project using funds other than funds provided under
2 this Act.

3 (3) EXCEPTION.—The Administrator may waive
4 the Federal share limitation under paragraph (1) for
5 an eligible entity that has adequately demonstrated
6 financial need.

7 **SEC. 6. ENVIRONMENTAL PROTECTION AGENCY INNOVA-**
8 **TIVE STORMWATER CONTROL INFRASTRUC-**
9 **TURE PROMOTION.**

10 (a) IN GENERAL.—The Administrator shall ensure
11 that the Office of Water, the Office of Enforcement and
12 Compliance, the Office of Research and Development, and
13 the Office of Policy of the Environmental Protection Agen-
14 cy promote the use of innovative stormwater control infra-
15 structure in and coordinate the integration of innovative
16 stormwater control infrastructure into permitting pro-
17 grams, planning efforts, research, technical assistance,
18 and funding guidance.

19 (b) DUTIES.—The Administrator shall ensure that
20 the Office of Water—

21 (1) promotes the use of innovative stormwater
22 control infrastructure in the programs of the Envi-
23 ronmental Protection Agency;

24 (2) supports establishing public-private partner-
25 ships and other innovative financing mechanisms in

1 the implementation of innovative stormwater control
2 infrastructure; and

3 (3) coordinates efforts to increase the use of in-
4 novative stormwater control infrastructure with—

5 (A) other Federal departments and agen-
6 cies;

7 (B) State, tribal, and local governments;
8 and

9 (C) the private sector.

10 (c) REGIONAL INNOVATIVE STORMWATER CONTROL
11 INFRASTRUCTURE PROMOTION.—The Administrator shall
12 direct each regional office of the Environmental Protection
13 Agency, as appropriate based on local factors, to promote
14 and integrate the use of innovative stormwater control in-
15 frastructure within the region that includes—

16 (1) a plan for monitoring, financing, mapping,
17 and designing the innovative stormwater control in-
18 frastructure;

19 (2) outreach and training regarding innovative
20 stormwater control infrastructure implementation
21 for State, tribal, and local governments, tribal com-
22 munities, and the private sector; and

23 (3) the incorporation of innovative stormwater
24 control infrastructure into permitting and other reg-
25 ulatory programs, codes, and ordinance development,

1 including the requirements under consent decrees
2 and settlement agreements in enforcement actions.

3 (d) INNOVATIVE STORMWATER CONTROL INFRA-
4 STRUCTURE INFORMATION-SHARING.—The Administrator
5 shall promote innovative stormwater control infrastructure
6 information-sharing, including through an Internet
7 website, to share information with, and provide technical
8 assistance to, State, tribal, and local governments, tribal
9 communities, the private sector, and the public regarding
10 innovative stormwater control infrastructure approaches
11 for—

- 12 (1) reducing water pollution;
- 13 (2) protecting water resources;
- 14 (3) complying with regulatory requirements;
- 15 and
- 16 (4) achieving other environmental, public
17 health, and community goals.

18 (e) INNOVATIVE STORMWATER CONTROL INFRA-
19 STRUCTURE PORTFOLIO STANDARD.—The Administrator,
20 in collaboration with State, tribal, and local water resource
21 managers, shall establish voluntary measurable goals, to
22 be known as the “innovative stormwater control infra-
23 structure portfolio standard”, to increase the percentage
24 of annual water managed by eligible entities that use inno-
25 vative stormwater control infrastructure.

1 **SEC. 7. REPORT TO CONGRESS.**

2 Not later than September 30, 2019, the Adminis-
3 trator shall submit to Congress a report that includes,
4 with respect to the period covered by the report—

5 (1) a description of all grants provided under
6 this Act;

7 (2) a detailed description of—

8 (A) the projects supported by those grants;

9 and

10 (B) the outcomes of those projects;

11 (3) a description of the improvements in tech-
12 nology, environmental benefits, resources conserved,
13 efficiencies, and other benefits of the projects funded
14 under this Act;

15 (4) recommendations for improvements to pro-
16 mote and support innovative stormwater control in-
17 frastructure for the centers, grants, and activities
18 under this Act; and

19 (5) a description of existing challenges con-
20 cerning the use of innovative stormwater control in-
21 frastructure.

22 **SEC. 8. AUTHORIZATION OF APPROPRIATIONS.**

23 There are authorized to be appropriated to carry out
24 this Act such sums as are necessary for each of fiscal
25 years 2018 through 2023.

