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.

IN THE SENATE OF THE UNITED STATES

DECEMBER 12, 2019

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

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.

Be it enacted by the Senate and House of Representa-
atives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Wastewater Efficiency and Treatment Act of 2019”.

SEC. 2. FINDINGS.

Congress finds that—
(1) municipalities face high energy costs to operate and maintain the wastewater treatment facilities of the municipalities;

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

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

(4) energy costs are part of the calculus in determining ratepayer rates;

(5) wastewater treatment facilities that use anaerobic digestion can capture methane for conversion into energy for onsite power production, heating, transportation fuel, export of renewable natural gas or electricity, and other uses;

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

(7) all wastewater treatment facilities, regardless of type of treatment or size, can benefit from
energy audits and installation of energy efficient components;

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

(A) reduced energy costs for the wastewater treatment facility;

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

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

(9) many existing Federal programs relating to water infrastructure remain inaccessible because municipality officials and utility managers may not have resources—

(A) to upgrade the infrastructure of the wastewater treatment facilities of the municipality for energy efficiency; or

(B) to transition wastewater treatment facilities of the municipality towards energy resiliency; and

(10) this Act will substantially benefit wastewater treatment facilities in the United States by addressing the gap in funding for wastewater treatment facility projects for large and small municipali-
ties by making loan guarantees and grants available
to municipalities to reduce borrowing costs and ac-
celerate water infrastructure investment.

SEC. 3. WATER AND ENERGY EFFICIENCY PROGRAM.

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

“SEC. 1706. WATER AND ENERGY EFFICIENCY PROGRAM.

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

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

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

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

“(b) DEFINITIONS.—In this section:

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

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

“(3) PROGRAM.—The term ‘Program’ means the Water and Energy Efficiency Program established under subsection (c)(1).

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

“(c) ESTABLISHMENT.—

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

“(A) grants under subsection (d); and

“(B) guarantees under subsection (e).

“(2) CRITERIA.—The Secretary shall develop application criteria for providing grants and guarantees under the Program, including criteria to determine whether a municipality or Indian Tribe is eligible for a grant or guarantee under the Program.

“(d) WATER EFFICIENCY GRANTS.—
“(1) IN GENERAL.—Under the Program, the Secretary, acting through the Assistant Secretary for Energy Efficiency and Renewable Energy, shall award grants to eligible entities described in paragraph (2) to carry out one or more eligible projects described in paragraph (3).

“(2) ELIGIBLE ENTITIES.—An entity eligible to receive a grant under this subsection is a small publicly wastewater treatment facility that serves—

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

“(B) a disadvantaged community, as determined by the Secretary.

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

“(A) a project to carry out an energy efficiency audit of a wastewater treatment facility to identify opportunities in the operations of the wastewater treatment facility—

“(i) to reduce electrical demand; or

“(ii) to reduce losses in the wastewater treatment facility system; and

“(B) a project to replace equipment or to carry out other small capital projects to update components of a wastewater treatment facility
based on the results of an energy efficiency audit of the wastewater treatment facility.

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

“(5) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary to carry out this subsection $5,000,000 for fiscal year 2020 and each fiscal year thereafter, of which not more than 4 percent each fiscal year shall be used for administrative costs.

“(e) WATER AND ENERGY EFFICIENCY GUARANTEES.—

“(1) IN GENERAL.—Under the Program, the Secretary shall provide guarantees to eligible municipalities and Tribes to carry out one or more eligible projects described in paragraph (2).

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

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

“(i) predigestion solids treatment;
“(ii) installation of anaerobic digesters;

“(iii) biogas capture;

“(iv) energy transfer;

“(v) enhanced nutrient recovery;

“(vi) material feedstocks;

“(vii) facility upgrades and retrofits necessary to create or improve waste-to-energy systems; and

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

“(B) a project that is being carried out pursuant to an existing plan that, as determined by the Secretary, will assist in transitioning a wastewater treatment facility towards the use of energy-efficient technologies.

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

“(A) predevelopment costs associated with the eligible project or existing water and wastewater systems that are part of the eligible project, including energy assessments; and

“(B) construction and equipment costs incurred in carrying out an eligible project under this subsection.
“(4) ADDITIONAL ACTIVITY.—In providing guarantees under this subsection, the Secretary shall promote technologies to reduce pollution in wastewater, including enhanced nutrient recovery and other innovative technologies.

“(f) SMALL-SCALE EXTENSION SERVICES PROGRAM.—In carrying out the Program, the Secretary shall establish a small-scale extension services program to provide assistance to rural communities through grants, outreach, training, and technical assistance regarding energy-efficient technologies at wastewater treatment facilities in eligible municipalities and Tribes.

“(g) ADMINISTRATION.—

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

“(A) relieve any recipient of the grant or guarantee of any obligation to obtain any required State, local, or Tribal permit or approval with respect to the project;

“(B) limit the right of any unit of State, local, or Tribal government to approve or regulate any rate of return on private equity invested in the project; or
“(C) otherwise supersede any State, local, or Tribal law (including any regulations) applicable to the construction or operation of the project.

“(2) CLEAN WATER ACT.—Nothing in this section precludes, preempts, or supersedes any requirement under the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.) (commonly referred to as the “Clean Water Act”).

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

“(1) with respect to that fiscal year—

“(A) each application received for assistance under the Program;

“(B) a list of the projects selected for assistance under the Program, including—

“(i) a description of each project;

“(ii) the amount of financial assistance provided for each project; and

“(iii) the basis for the selection of each project with respect to the requirements of this section; and
“(C) an overview of technical assistance and outreach activities provided during that fiscal year to—

“(i) each eligible municipality and Tribe; and

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

“(2) the technical assistance and outreach activities proposed to be provided over the next 2 fiscal years to the entities described in clauses (i) through (iii) of paragraph (1)(C).”.

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

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

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