

113TH CONGRESS
1ST SESSION

S. 1209

To establish a State Energy Race to the Top Initiative to assist energy policy innovation in the States to promote the goal of doubling electric and thermal energy productivity by January 1, 2030.

IN THE SENATE OF THE UNITED STATES

JUNE 20, 2013

Mr. WARNER (for himself and Mr. MANCHIN) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

A BILL

To establish a State Energy Race to the Top Initiative to assist energy policy innovation in the States to promote the goal of doubling electric and thermal energy productivity by January 1, 2030.

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 “State Energy Race
5 to the Top Initiative Act of 2013”.

6 **SEC. 2. PURPOSE.**

7 The purpose of this Act is to assist energy policy in-
8 novation in the States to promote the goal of doubling

1 electric and thermal energy productivity by January 1,
2 2030.

3 **SEC. 3. DEFINITIONS.**

4 In this Act:

5 (1) COVERED ENTITY.—The term “covered en-
6 tity” means—

7 (A) a public power utility;

8 (B) an electric cooperative; and

9 (C) an Indian tribe (as defined in section
10 4 of the Indian Self-Determination and Edu-
11 cation Assistance Act (25 U.S.C. 450b)).

12 (2) STATE.—The term “State” has the mean-
13 ing given the term in section 3 of the Energy Policy
14 and Conservation Act (42 U.S.C. 6202).

15 **SEC. 4. PHASE 1: INITIAL ALLOCATION OF GRANTS TO**
16 **STATES.**

17 (a) IN GENERAL.—Not later than 30 days after the
18 date of enactment of this Act, the Secretary shall issue
19 an invitation to States to submit plans to participate in
20 an electric and thermal energy productivity challenge in
21 accordance with this section.

22 (b) GRANTS.—

23 (1) IN GENERAL.—Subject to section 7, the
24 Secretary shall use funds made available under sec-

1 tion 8(b)(1) to provide an initial allocation of grants
2 to not more than 25 States.

3 (2) AMOUNT.—The amount of a grant provided
4 to a State under this section shall be not less than
5 \$1,000,000 nor more than \$3,500,000.

6 (c) SUBMISSION OF PLANS.—To receive a grant
7 under this section, not later than 90 days after the date
8 of issuance of the invitation under subsection (a), a State
9 shall submit to the Secretary an application to receive the
10 grant by submitting a revised State energy conservation
11 plan under section 362 of the Energy Policy and Con-
12 servation Act (42 U.S.C. 6322).

13 (d) DECISION BY SECRETARY.—

14 (1) IN GENERAL.—Not later than 90 days after
15 the submission of revised State energy conservation
16 plans under subsection (c), the Secretary shall make
17 a final decision on the allocation of grants under
18 this section.

19 (2) BASIS.—The Secretary shall base the deci-
20 sion of the Secretary under paragraph (1) on—

21 (A) plans for improvement in electric and
22 thermal energy productivity consistent with this
23 Act; and

24 (B) other factors determined appropriate
25 by the Secretary, including geographic diversity.

1 (3) RANKING.—The Secretary shall—

2 (A) rank revised plans submitted under
3 this section in order of the greatest to least
4 likely contribution to improving energy produc-
5 tivity in a State; and

6 (B) provide grants under this section in
7 accordance with the ranking and the scale and
8 scope of a plan.

9 (e) PLAN REQUIREMENTS.—A revised State energy
10 conservation plan submitted under subsection (c) shall
11 provide—

12 (1) a description of the manner in which—

13 (A) energy savings will be monitored and
14 verified;

15 (B) a statewide baseline of energy use and
16 potential resources for calendar year 2010 will
17 be established to measure improvements;

18 (C) the plan will promote achievement of
19 energy savings and demand reduction goals;

20 (D) public and private sector investments
21 in energy efficiency will be leveraged, including
22 through banks, credit unions, and institutional
23 investors; and

1 (E) the plan will not cause cost-shifting
2 among utility customer classes or negatively im-
3 pact low-income populations; and

4 (2) an assurance that—

5 (A) the State energy office required to sub-
6 mit the plan and the State public service com-
7 mission are cooperating and coordinating pro-
8 grams and activities under this Act;

9 (B) the State is cooperating with local
10 units of government to expand programs as ap-
11 propriate; and

12 (C) grants provided under this Act will be
13 used to supplement and not supplant Federal,
14 State, or ratepayer-funded programs or activi-
15 ties in existence on the date of enactment of
16 this Act.

17 (f) USES.—A State may use grants provided under
18 this section to promote—

19 (1) the expansion of industrial energy effi-
20 ciency, combined heat and power, and waste heat-to-
21 power utilization;

22 (2) the expansion of policies and programs that
23 will advance energy efficiency retrofits for public and
24 private commercial buildings, schools, hospitals, and
25 residential buildings (including multifamily build-

ings) through expanded energy service performance contracts, zero net-energy buildings, or improved building energy efficiency codes;

(3) the establishment or expansion of incentives in the electric utility sector to enhance demand response and energy efficiency, including consideration of additional incentives to promote the purposes of section 111(d) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2621(d)), such as appropriate, cost-effective heat and power and waste heat-to-power incentives, financing of energy efficiency programs, data use incentives, district heating, and regular energy audits; and

(4) leadership by example, in which State activities involving both facilities and vehicle fleets can be a model for other action to promote energy efficiency and can be expanded with Federal grants provided under this Act.

SEC. 5. PHASE 2: SUBSEQUENT ALLOCATION OF GRANTS TO STATES.

(a) REPORTS.—Not later than 18 months after the receipt of grants under section 4, each State that received grants under section 4 may submit to the Secretary a report that describes—

1 (1) the performance of the programs and activi-
2 ties carried out with the grants; and

3 (2) the manner in which additional funds would
4 be used to carry out programs and activities to pro-
5 mote the purposes of this Act.

6 (b) GRANTS.—

7 (1) IN GENERAL.—Not later than 180 days
8 after the date of the receipt of the reports required
9 under subsection (a), subject to section 7, the Sec-
10 retary shall use amounts made available under sec-
11 tion 8(b)(2) to provide grants to not more than 6
12 States to carry out the programs and activities de-
13 scribed in subsection (a)(2).

14 (2) AMOUNT.—The amount of a grant provided
15 to a State under this section shall be not more than
16 \$30,000,000.

17 (3) BASIS.—The Secretary shall base the deci-
18 sion of the Secretary to provide grants under this
19 section on—

20 (A) the performance of the State in the
21 programs and activities carried out with grants
22 provided under section 4;

23 (B) the potential of the programs and ac-
24 tivities described in subsection (a)(2) to achieve
25 the purposes of this Act;

1 (C) the desirability of maintaining a total
 2 project portfolio that is geographically and
 3 functionally diverse; and

4 (D) the amount of non-Federal funds that
 5 are leveraged as a result of the grants to ensure
 6 that Federal dollars are leveraged effectively.

7 **SEC. 6. ALLOCATION OF GRANTS TO COVERED ENTITIES.**

8 (a) IN GENERAL.—Not later than 30 days after the
 9 date of enactment of this Act, the Secretary shall invite
 10 covered entities to submit plans to participate in an elec-
 11 tric and thermal energy productivity challenge in accord-
 12 ance with this section.

13 (b) SUBMISSION OF PLANS.—To receive a grant
 14 under this section, not later than 90 days after the date
 15 of issuance of the invitation under subsection (a), a cov-
 16 ered entity shall submit to the Secretary a plan to increase
 17 electric and thermal energy productivity by the covered en-
 18 tity.

19 (c) DECISION BY SECRETARY.—

20 (1) IN GENERAL.—Not later than 90 days after
 21 the submission of plans under subsection (b), the
 22 Secretary shall make a final decision on the alloca-
 23 tion of grants under this section.

24 (2) BASIS.—The Secretary shall base the deci-
 25 sion of the Secretary under paragraph (1) on—

1 (A) plans for improvement in electric and
2 thermal energy productivity consistent with this
3 Act;

4 (B) plans for continuation of the improve-
5 ments after the receipt of grants under this
6 Act; and

7 (C) other factors determined appropriate
8 by the Secretary, including—

9 (i) geographic diversity;

10 (ii) size differences among covered en-
11 tities; and

12 (iii) equitable treatment of each sector
13 under this section.

14 **SEC. 7. ADMINISTRATION.**

15 (a) INDEPENDENT EVALUATION.—To evaluate pro-
16 gram performance and effectiveness under this Act, the
17 Secretary shall consult with the National Research Coun-
18 cil regarding requirements for data and evaluation for re-
19 cipients of grants under this Act.

20 (b) COORDINATION WITH STATE ENERGY CON-
21 SERVATION PROGRAMS.—

22 (1) IN GENERAL.—Grants to States under this
23 Act shall be provided through additional funding to
24 carry out State energy conservation programs under

1 part D of title III of the Energy Policy and Con-
2 servation Act (42 U.S.C. 6321 et seq.).

3 (2) RELATIONSHIP TO STATE ENERGY CON-
4 SERVATION PROGRAMS.—

5 (A) IN GENERAL.—A grant provided to a
6 State under this Act shall be used to supple-
7 ment (and not supplant) funds provided to the
8 State under part D of title III of the Energy
9 Policy and Conservation Act (42 U.S.C. 6321
10 et seq.).

11 (B) MINIMUM FUNDING.—A grant pro-
12 vided to a State shall not be provided to a State
13 for a fiscal year under this Act if the amount
14 of the grant provided to the State for the fiscal
15 year under part D of title III of the Energy
16 Policy and Conservation Act (42 U.S.C. 6321
17 et seq.) is less than \$50,000,000.

18 (c) VOLUNTARY PARTICIPATION.—The participation
19 of a State or covered entity in a challenge established
20 under this Act shall be voluntary.

21 **SEC. 8. AUTHORIZATION OF APPROPRIATIONS.**

22 (a) IN GENERAL.—There are authorized to be appro-
23 priated to carry out this Act \$200,000,000 for fiscal years
24 2014 through 2017.

1 (b) ALLOCATION.—Of the total amount of funds
2 made available under subsection(a)—

3 (1) 30 percent shall be used to provide an ini-
4 tial allocation of grants to States under section 4;

5 (2) 52½ percent shall be used to provide a sub-
6 sequent allocation of grants to States under section
7 5;

8 (3) 12½ percent shall be used to make grants
9 to public power utilities, electric cooperatives, and
10 Indian tribes under section 6; and

11 (4) 5 percent shall be available to the Secretary
12 for the cost of administration and technical support
13 to carry out this Act.

14 **SEC. 9. OFFSET.**

15 Section 422(f) of the Energy Independence and Secu-
16 rity Act of 2007 (42 U.S.C. 17082(f)) (as otherwise
17 amended by this Act) is amended—

18 (1) in paragraph (4), by adding “and” after the
19 semicolon at the end; and

20 (2) by striking paragraph (5) through the pe-
21 riod at the end of the subsection and inserting:

22 “(5) \$0 for each of fiscal years 2014 through
23 2017.”.

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