

113TH CONGRESS  
1ST SESSION

# S. 1218

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.

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## IN THE SENATE OF THE UNITED STATES

JUNE 25, 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

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## 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-

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

4            (3) the establishment or expansion of incentives  
5        in the electric utility sector to enhance demand re-  
6        sponse and energy efficiency, including consideration  
7        of additional incentives to promote the purposes of  
8        section 111(d) of the Public Utility Regulatory Poli-  
9        cies Act of 1978 (16 U.S.C. 2621(d)), such as ap-  
10       appropriate, cost-effective policies regarding rate struc-  
11       tures, grid improvements, behavior change, combined  
12       heat and power and waste heat-to-power incentives,  
13       financing of energy efficiency programs, data use in-  
14       centives, district heating, and regular energy audits;  
15       and

16            (4) leadership by example, in which State ac-  
17        tivities involving both facilities and vehicle fleets can  
18        be a model for other action to promote energy effi-  
19       ciency and can be expanded with Federal grants pro-  
20       vided under this Act.

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

23        (a) **REPORTS.**—Not later than 18 months after the  
24 receipt of grants under section 4, each State that received

1 grants under section 4 may submit to the Secretary a re-  
2 port that describes—

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

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

8 (b) GRANTS.—

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

16 (2) AMOUNT.—The amount of a grant provided  
17 to a State under this section shall be not more than  
18 \$30,000,000.

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

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

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

4 (C) the desirability of maintaining a total  
5 project portfolio that is geographically and  
6 functionally diverse; and

7 (D) the amount of non-Federal funds that  
8 are leveraged as a result of the grants to ensure  
9 that Federal dollars are leveraged effectively.

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

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

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

22 (c) DECISION BY SECRETARY.—

23 (1) IN GENERAL.—Not later than 90 days after  
24 the submission of plans under subsection (b), the

1 Secretary shall make a final decision on the alloca-  
2 tion of grants under this section.

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

5 (A) plans for improvement in electric and  
6 thermal energy productivity consistent with this  
7 Act;

8 (B) plans for continuation of the improve-  
9 ments after the receipt of grants under this  
10 Act; and

11 (C) other factors determined appropriate  
12 by the Secretary, including—

13 (i) geographic diversity;

14 (ii) size differences among covered en-  
15 tities; and

16 (iii) equitable treatment of each sector  
17 under this section.

18 **SEC. 7. ADMINISTRATION.**

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

24 (b) COORDINATION WITH STATE ENERGY CON-  
25 SERVATION PROGRAMS.—

1           (1) IN GENERAL.—Grants to States under this  
2 Act shall be provided through additional funding to  
3 carry out State energy conservation programs under  
4 part D of title III of the Energy Policy and Con-  
5 servation Act (42 U.S.C. 6321 et seq.).

6           (2) RELATIONSHIP TO STATE ENERGY CON-  
7 SERVATION PROGRAMS.—

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

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

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

1 **SEC. 8. AUTHORIZATION OF APPROPRIATIONS.**

2 (a) IN GENERAL.—There is authorized to be appro-  
3 priated to carry out this Act \$200,000,000 for the period  
4 of fiscal years 2014 through 2017.

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

7 (1) 30 percent shall be used to provide an ini-  
8 tial allocation of grants to States under section 4;

9 (2) 52½ percent shall be used to provide a sub-  
10 sequent allocation of grants to States under section  
11 5;

12 (3) 12½ percent shall be used to make grants  
13 to public power utilities, electric cooperatives, and  
14 Indian tribes under section 6; and

15 (4) 5 percent shall be available to the Secretary  
16 for the cost of administration and technical support  
17 to carry out this Act.

18 **SEC. 9. OFFSET.**

19 Section 422(f) of the Energy Independence and Secu-  
20 rity Act of 2007 (42 U.S.C. 17082(f)) is amended—

21 (1) in paragraph (3), by striking “and” after  
22 the semicolon at the end; and

23 (2) by striking paragraph (4) and inserting the  
24 following:

25 “(4) \$200,000,000 for fiscal year 2013;

1           “(5) \$150,000,000 for each of fiscal years 2014  
2           through 2017; and  
3           “(6) \$200,000,000 for fiscal year 2018.”.

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