

113TH CONGRESS  
1ST SESSION

# S. 1768

To establish State revolving loan funds to repair or replace natural gas distribution pipelines.

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## IN THE SENATE OF THE UNITED STATES

NOVEMBER 21, 2013

Mr. MARKEY (for himself and Mr. WHITEHOUSE) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

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## A BILL

To establish State revolving loan funds to repair or replace natural gas distribution pipelines.

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 “Pipeline Revolving  
5 Fund and Job Creation Act”.

6 **SEC. 2. DEFINITIONS.**

7 In this Act:

8 (1) ADMINISTRATOR.—The term “Adminis-  
9 trator” means the Administrator of the Pipeline and  
10 Hazardous Materials Safety Administration.

1 (2) STATE.—The term “State” means—

2 (A) a State; and

3 (B) the District of Columbia.

4 (3) STATE LOAN FUND.—The term “State loan  
5 fund” means a pipeline replacement revolving loan  
6 fund established by a State under section  
7 3(a)(2)(B).

8 **SEC. 3. STATE REVOLVING LOAN FUNDS.**

9 (a) GRANTS TO STATES TO ESTABLISH LOAN  
10 FUNDS.—

11 (1) IN GENERAL.—The Administrator shall  
12 offer to enter into agreements with eligible States to  
13 make capitalization grants, including letters of cred-  
14 it, to the States under this subsection to repair or  
15 replace natural gas distribution pipelines.

16 (2) ELIGIBILITY.—To be eligible to receive a  
17 capitalization grant under this section, a State  
18 shall—

19 (A) enter into a capitalization agreement  
20 with the Administrator under paragraph (1);  
21 and

22 (B) establish a pipeline replacement revolv-  
23 ing loan fund.

1           (3) DEPOSIT.—Funds granted to a State under  
2           this section shall be deposited in the State loan fund  
3           established by the State.

4           (4) PERIOD.—The funds granted to a State  
5           shall be available to the State for obligation during  
6           the fiscal year for which the funds are authorized  
7           and during the following fiscal year.

8           (5) ALLOTMENT.—Funds made available to  
9           carry out this section shall be allotted to States in  
10          at the discretion of the Administrator.

11          (6) REALLOTMENT.—Any funds not obligated  
12          by a State by the last day of the period for which  
13          the grants are available shall be reallocated in accord-  
14          ance with paragraph (5).

15          (b) USE OF FUNDS.—

16               (1) IN GENERAL.—Amounts deposited in a  
17               State loan fund, including loan repayments and in-  
18               terest earned on the amounts, shall be used only for  
19               providing loans or loan guarantees or as a source of  
20               reserve and security for leveraged loans.

21               (2) LIMITATIONS.—

22                     (A) IN GENERAL.—Loans or loan guaran-  
23                     tees made by a State under paragraph (1)—

24                               (i) may be used only for expenditures  
25                               of a type or category that the Adminis-

trator has determined, through guidance,  
will—

(I) facilitate compliance with a  
plan submitted under subsection (c);  
or

(II) otherwise significantly fur-  
ther the replacement or repair of nat-  
ural gas distribution pipelines that  
have been identified as leak-prone;  
and

(ii) may not be used for the acqui-  
sition of real property or an interest in real  
property, unless the acquisition is—

(I) integral to a plan submitted  
under subsection (c); and

(II) from a willing seller.

(B) BUYING AMERICAN.—

(i) IN GENERAL.—The Administrator  
shall ensure, through guidance, that, to the  
maximum extent practicable, none of the  
funds from a loan or loan guarantee made  
by a State under paragraph (1) are used  
to repair or replace natural gas distribu-  
tion pipelines unless all of the iron, steel,  
plastic, and manufactured goods used in

1 the repair or replacement are produced in  
2 the United States.

3 (ii) WAIVER.—Clause (i) shall not  
4 apply in any case or category of cases in  
5 which the Administrator finds that—

6 (I) applying that clause would be  
7 inconsistent with the public interest;

8 (II) iron, steel, plastic, or the ap-  
9 plicable manufactured goods are not  
10 produced in the United States in suf-  
11 ficient and reasonably available quan-  
12 tities and of a satisfactory quality; or

13 (III) inclusion of iron, steel, plas-  
14 tic, and manufactured goods produced  
15 in the United States will increase the  
16 cost of the overall repair or replace-  
17 ment by more than 25 percent.

18 (iii) PUBLICATION.—If the Adminis-  
19 trator determines that it is necessary to  
20 waive the application of clause (i) based on  
21 a finding under clause (ii), the Adminis-  
22 trator shall publish in the Federal Register  
23 a detailed written justification as to why  
24 the provision is being waived.

1 (iv) APPLICABILITY.—This section  
2 shall be applied in a manner consistent  
3 with United States obligations under inter-  
4 national agreements.

5 (c) INTENDED USE PLANS.—

6 (1) IN GENERAL.—After providing for public  
7 review and comment, each State that has entered  
8 into a capitalization agreement pursuant to this sec-  
9 tion shall annually prepare a plan that identifies the  
10 intended uses of the amounts available from the  
11 State loan fund of the State.

12 (2) CONTENTS.—An intended use plan shall in-  
13 clude—

14 (A) a list of the projects to be carried out  
15 by entities receiving the loans in the first fiscal  
16 year that begins after the date of the plan, in-  
17 cluding a description of the project;

18 (B) the criteria and methods established  
19 for the use of funds; and

20 (C) a description of the financial status of  
21 the State loan fund and the short- and long-  
22 term goals of the State loan fund.

23 (3) LIST OF PROJECTS.—Each State shall,  
24 after notice and opportunity for public comment,  
25 publish and periodically update a list of projects in

1 the State that are eligible for assistance under this  
2 section, including the priority assigned to each  
3 project and, to the maximum extent practicable, the  
4 expected funding schedule for each project and, if  
5 possible, an estimate of expected reductions in  
6 greenhouse gas emissions for the project.

7 (d) FUND MANAGEMENT.—

8 (1) IN GENERAL.—Each State loan fund under  
9 this section shall be established, maintained, and  
10 credited with repayments and interest and the fund  
11 corpus shall be available in perpetuity in accordance  
12 with this section.

13 (2) INVESTMENT AUTHORIZED.—To the extent  
14 amounts in the fund are not required for current ob-  
15 ligation or expenditure, the amounts shall be in-  
16 vested in interest bearing obligations.

17 (e) STATE CONTRIBUTIONS.—Each capitalization  
18 agreement entered into pursuant to this section shall re-  
19 quire that the State deposit in the State loan fund from  
20 State moneys an amount equal to not less than 20 percent  
21 of the total amount of the grant to be made to the State  
22 on or before the date on which the grant payment is made  
23 to the State.

24 (f) ADMINISTRATION OF STATE LOAN FUND.—

1           (1) IN GENERAL.—Each State may annually  
2           use not greater than 4 percent of the funds allotted  
3           to the State under this section to cover the reason-  
4           able costs of administration of the programs under  
5           this section, including the recovery of reasonable  
6           costs expended to establish a State loan fund that  
7           are incurred after the date of enactment of this Act.

8           (2) GUIDANCE AND REGULATIONS.—The Ad-  
9           ministrator shall issue guidance and promulgate reg-  
10          ulations as are necessary to carry out this section,  
11          including guidance and regulations—

12                 (A) to ensure that each State commits and  
13                 expends funds allotted to the State under this  
14                 section as efficiently as practicable in accord-  
15                 ance with this section and applicable State law;

16                 (B) to prevent waste, fraud, and abuse;  
17                 and

18                 (C) to ensure that the States receiving  
19                 grants under this section use accounting, audit,  
20                 and fiscal procedures that conform to generally  
21                 accepted accounting standards.

22          (3) STATE REPORT.—Each State administering  
23          a State loan fund under this section shall submit to  
24          the Administrator a report every 2 years on the ac-  
25          tivities carried out under this section, including the



1 findings of the most recent audit of the fund and the  
2 entire State allotment.

3 (4) AUDITS.—The Administrator shall periodi-  
4 cally audit all State loan funds established by, and  
5 all other amounts allotted to, the States pursuant to  
6 this section in accordance with procedures estab-  
7 lished by the Comptroller General of the United  
8 States.

9 (g) APPLICABILITY OF FEDERAL LAW.—

10 (1) IN GENERAL.—The Administrator shall en-  
11 sure that all laborers and mechanics employed on  
12 projects funded directly, or assisted in whole or in  
13 part, by this Act and contributed to a State loan  
14 fund established by this Act shall be paid wages at  
15 rates not less than those prevailing on projects of a  
16 character similar in the locality as determined by the  
17 Secretary of Labor in accordance with subchapter  
18 IV of chapter 31 of part A of subtitle II of title 40,  
19 United States Code.

20 (2) AUTHORITY.—With respect to the labor  
21 standards specified in paragraph (1), the Secretary  
22 of Labor shall have the authority and functions set  
23 forth in Reorganization Plan Numbered 14 of 1950  
24 (64 Stat. 1267; 5 U.S.C. App.) and section 3145 of  
25 title 40, United States Code.

1 **SEC. 4. AUTHORIZATION OF APPROPRIATIONS.**

2 (a) IN GENERAL.—There are authorized to be appro-  
3 priated to carry out this Act such sums as are necessary  
4 for each of fiscal years 2014 through 2024.

5 (b) LIMITATION.—Only sums appropriated pursuant  
6 to subsection (a) may be used to carry out this Act.

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