

PROVIDING FOR CONSIDERATION OF THE BILL (H.R. 4785) TO AMEND THE MISCELLANEOUS RURAL DEVELOPMENT PROVISIONS OF THE FARM SECURITY AND RURAL INVESTMENT ACT OF 2002 TO AUTHORIZE THE SECRETARY OF AGRICULTURE TO MAKE LOANS TO CERTAIN ENTITIES THAT WILL USE THE FUNDS TO MAKE LOANS TO CONSUMERS TO IMPLEMENT ENERGY EFFICIENCY MEASURES INVOLVING STRUCTURAL IMPROVEMENTS AND INVESTMENTS IN COST-EFFECTIVE, COMMERCIAL OFF-THE-SHELF TECHNOLOGIES TO REDUCE HOME ENERGY USE

SEPTEMBER 15, 2010.—Referred to the House Calendar and ordered to be printed

Mr. MCGOVERN, from the Committee on Rules,
submitted the following

R E P O R T

[To accompany H. Res. 1620]

The Committee on Rules, having had under consideration House Resolution 1620, by a nonrecord vote, report the same to the House with the recommendation that the resolution be adopted.

SUMMARY OF PROVISIONS OF THE RESOLUTION

The resolution provides for consideration of H.R. 4785, the “Rural Energy Savings Program Act,” under a structured rule. The resolution provides one hour of general debate equally divided and controlled by the chair and ranking minority member of the Committee on Agriculture and by the chair and ranking minority member of the Committee on Energy and Commerce. The resolution waives all points of order against consideration of the bill except those arising under clause 9 or 10 of rule XXI. The resolution provides that in lieu of the amendment in the nature of a substitute recommended by the Committee on Agriculture now printed in the bill, the amendment in the nature of a substitute printed in part A of this report shall be considered as an original bill for the purpose of amendment and shall be considered as read. The resolution waives all points of order against the amendment in the nature of a substitute except those arising under clause 10 of rule XXI. This waiver does not affect the point of order available under clause 9 of rule XXI (regarding earmark disclosure). The resolution makes in order only those amendments printed in part B of this report. Each such amendment may be offered only in the order printed in this report, may be offered only by a Member designated in this report, shall be considered as read, shall be debatable for the time

specified in this report equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question. All points of order against the amendments in part B except for clauses 9 and 10 of rule XXI are waived. The resolution provides one motion to recommit with or without instructions. The resolution provides that the Chair may entertain a motion that the Committee rise only if offered by the chair of the Committee on Agriculture or his designee. The resolution provides that the Chair may not entertain a motion to strike out the enacting words of the bill.

EXPLANATION OF WAIVERS

The waiver of all points of order against consideration of the bill (except for clauses 9 and 10 of rule XXI) includes a waiver of clause 4(a) of rule XIII, requiring a three-day layover of the committee report. Although the rule waives all points of order against the amendment in the nature of a substitute (except for clause 10 of rule XXI), the Committee is not aware of any points of order. The waiver of all points of order is prophylactic.

COMMITTEE VOTES

The results of each record vote on an amendment or motion to report, together with the names of those voting for and against, are printed below:

Rules Committee record vote No. 493

Date: September 15, 2010.

Measure: H.R. 4785.

Motion by: Mr. Dreier.

Summary of motion: To report an open rule.

Results: Defeated 2–6.

Vote by Members: McGovern—Nay; Matsui—Nay; Arcuri—Nay; Pingree—Nay; Polis—Nay; Dreier—Yea; Foxx—Yea; Slaughter—Nay.

Rules Committee record vote No. 494

Date: September 15, 2010.

Measure: H.R. 4785.

Motion by: Dr. Foxx.

Summary of motion: To make in order and provide appropriate waivers for an amendment by Rep. Barton (TX), #11, which would strike section 1 of the substitute, eliminating the Home Star Energy Efficiency Loan Program and making technical and conforming changes. Also would require that all items on the master list of residential energy efficiency measures be recommended by the Secretary of Agriculture.

Results: Defeated 2–7.

Vote by Members: McGovern—Nay; Matsui—Nay; Cardoza—Nay; Arcuri—Nay; Pingree—Nay; Polis—Nay; Dreier—Yea; Foxx—Yea; Slaughter—Nay.

SUMMARY OF THE AMENDMENT IN THE NATURE OF A SUBSTITUTE IN
PART A TO BE CONSIDERED AS AN ORIGINAL BILL

The substitute for H.R. 4785 is nearly identical to the rural energy efficiency loan program language ordered reported by the Agriculture Committee on July 14, authorizing loans from the Rural Utilities Service to rural electric cooperatives for purposes of making loans to their residential and farm customers for energy efficiency measures. In addition, the substitute adds a Home Star energy efficiency loan program that is nearly identical to the energy efficiency loan program reported out by the Energy and Commerce Committee in April as part of H.R. 5019. The Home Star Energy Efficiency Loan Program authorizes loans to the States in order for States to select eligible entities to provide loans to consumers for residential energy efficiency measures.

SUMMARY OF AMENDMENTS IN PART B TO BE MADE IN ORDER

1. Holden (PA): Would clarify that loan funds under the bill may not be used to purchase manufactured homes, makes technical corrections to a Comptroller General report, prohibits provision of funds to certain contractors and makes ineligible for loans certain Federal Employees. Also requires the Secretaries of Energy and Agriculture to take steps to prevent misuse of funds. Would prohibit any additions to direct spending in regards to provisions within this Act. Would not allow an entity with an ongoing capital repayment obligation to the Treasury due to the Troubled Assets Relief Program to participate in the programs within this Act. Would ensure that funds provided under this bill would supplement and not supplant other energy efficiency funding. (20 minutes)

2. Cuellar (TX): Would direct the Secretary of Agriculture to provide assistance and technical advice to the qualified entities providing loans under this bill to increase the participation of economically distressed rural communities with unemployment rates above the national average. (10 minutes)

3. McCarthy, Carolyn (NY): Would require that lenders providing loans under this Act give priority to active duty members of the Armed Forces and to veterans. (10 minutes)

4. Inslee (WA): Would require the Department of Energy, in consultation with the Secretary of Agriculture, to consider passive house retrofits when identifying qualified energy efficiency measures. (10 minutes)

PART A—TEXT OF THE AMENDMENT IN THE NATURE OF A
SUBSTITUTE TO BE CONSIDERED AS AN ORIGINAL BILL

Strike all after the enacting clause and insert the following:

SECTION 1. HOME STAR ENERGY EFFICIENCY LOAN PROGRAM.

(a) DEFINITIONS.—In this section:

(1) ELIGIBLE PARTICIPANT.—The term “eligible participant” means a homeowner who receives financial assistance from a qualified financing entity to carry out qualifying energy savings measures pursuant to this section, and who is not also a qualified consumer under section 2.

(2) QUALIFIED FINANCING ENTITY.—The term “qualified financing entity” means a State, political subdivision of a State,

tribal government, electric utility, natural gas utility, nonprofit or community-based organization, energy service company, retailer, or any other entity that—

(A) meets the eligibility requirements of this section; and

(B) is designated by the Governor of a State in accordance with subsection (f)(1),

except that an entity that is an eligible entity under section 2 shall not be a qualified financing entity.

(3) QUALIFIED LOAN PROGRAM MECHANISM.—The term “qualified loan program mechanism” means a mechanism for the establishment and operation of a loan program that is—

(A) administered by a qualified financing entity; and

(B) funded in significant part—

(i) by funds provided by or overseen by a State; or

(ii) through the energy loan program of the Federal National Mortgage Association.

(4) QUALIFYING ENERGY SAVINGS MEASURE.—The term “qualifying energy savings measure” means a measure listed under subsection (c)(1) or (2) or stipulated in a whole-house analysis under subsection (c)(3).

(b) ESTABLISHMENT.—The Secretary of Energy shall establish a Home Star Energy Efficiency Loan Program under which the Secretary of Energy shall offer loans at zero percent interest to States to support financial assistance provided by qualified financing entities for the installation of qualifying energy savings measures.

(c) ENERGY EFFICIENCY MEASURES AND STANDARDS.—The Secretary of Energy, in consultation with the Secretary of Agriculture, shall publish—

(1) not later than 90 days after the date of enactment of this Act, a master list of residential energy efficiency measures determined to be cost-effective, readily available from commercial sources, to be permanently installed in a residence, and capable of supporting measurement and verification of the energy savings that results from their adoption;

(2) additions to such a list, approved by the Secretary of Energy, of other residential energy efficiency measures that are—

(A) recommended by the Secretary of Agriculture;

(B) calculated to achieve sufficient energy savings that they will achieve a simple payback within 10 years or less; and

(C) permanently installed in a residence;

(3) specifications for whole-house energy performance analyses simulating energy use before and after a retrofit utilizing measures from the master list published pursuant to paragraphs (1) and (2) and such other permanent structural measures as can be demonstrated, when installed and operated as intended, to improve residential energy efficiency in a manner that can be determined with confidence to be cost-effective and to recover their own cost in energy cost savings within the term of a proposed loan; and

(4) a protocol for measurement and verification of the energy savings that have resulted from any and all energy efficiency measures taken with respect to a residence and financed in whole or in part pursuant to this title.

(d) **ELIGIBILITY OF QUALIFIED FINANCING ENTITIES.**—To be eligible to participate in the Home Star Loan Program, a qualified financing entity shall—

(1) offer a financing product under which eligible participants may pay over time for the cost to the eligible participant (after all applicable Federal, State, local, and other rebates or incentives are applied) of installations described in subsection (b);

(2) require all financed installations to be performed by contractors in a manner that meets building code requirements and other appropriate minimum standards;

(3) establish standard underwriting criteria to determine the eligibility of Home Star Loan Program applicants, which criteria shall be consistent with—

(A) with respect to unsecured consumer loan programs, standard underwriting criteria used under the energy loan program of the Federal National Mortgage Association; or

(B) with respect to secured loans or other forms of financial assistance, commercially recognized best practices applicable to the form of financial assistance being provided (as determined by the designated entity administering the Home Star Loan Program in the State); and

(4) undertake particular efforts to make such loans available in public use microdata areas that have a poverty rate of 12 percent or more in a proportion of total loans made at least equal to the proportion the number of residents in such areas bears to the total population of the area served by that qualified financing entity.

(e) **ALLOCATION.**—In allocating 75 percent of the loan funds made available to States for each fiscal year under this section, the Secretary of Energy shall use the formula used to allocate funds to States to carry out State energy conservation plans established under part D of title III of the Energy Policy and Conservation Act (42 U.S.C. 6321 et seq.), with appropriate modifications to reflect the funds to be provided in States for loans under section 2. In allocating the remaining 25 percent of the loan funds made available to States for each fiscal year under this section, the Secretary of Energy may vary the result of the formula to recognize and reward those States that make the best progress in providing loans to low-income areas pursuant to subsection (d)(4).

(f) **QUALIFIED FINANCING ENTITIES.**—Before making funds available to a State under this section, the Secretary of Energy shall require the Governor of the State to provide to the Secretary of Energy a letter of agreement that the State—

(1) will use the funds provided pursuant to this section solely as provided in this section;

(2) has 1 or more qualified financing entities that meet the requirements of this section;

(3) has established, or has required its designated qualified financing entities to establish, a qualified loan program mechanism that—

(A) will use a quality assurance program or another appropriate methodology to ensure energy savings;

(B) incorporates an effective repayment mechanism, which may include—

- (i) on-utility-bill repayment;
- (ii) tax assessment or other form of property assessment financing;
- (iii) municipal service charges;
- (iv) energy or energy efficiency services contracts;
- (v) energy efficiency power purchase agreements;
- (vi) unsecured loans applying the underwriting requirements of the energy loan program of the Federal National Mortgage Association; or
- (vii) alternative contractual repayment mechanisms that have been demonstrated to have appropriate risk mitigation features;

(4) will provide, in a timely manner, all information regarding the administration of the Home Star Loan Program as the Secretary of Energy may require to permit the Secretary of Energy to meet program evaluation requirements; and

(5) will commit to the full repayment of the loaned funds to the Secretary of Energy by a date not later than 20 years from the date of the loan closing.

(g) **USE OF FUNDS.**—Funds made available to States for carrying out the Home Star Loan Program may be used to support financing mechanisms offered by qualified financing entities to eligible participants, including—

- (1) interest rate reductions to interest rates as low as zero percent;
- (2) loan loss reserves or other forms of credit enhancement;
- (3) revolving loan funds from which qualified financing entities may offer direct loans; or
- (4) other debt instruments necessary—
 - (A) to use available funds to obtain appropriate leverage through private investment; and
 - (B) to support widespread deployment of energy efficiency programs.

(h) **USE OF REPAID FUNDS.**—In the case of a revolving loan fund described in subsection (g)(3), a qualified financing entity may use funds repaid by eligible participants under the Home Star Loan Program to provide financial assistance for additional eligible participants for installations described in subsection (b) in a manner that is consistent with this section.

(i) **ADMINISTRATIVE COSTS.**—A State may permit a qualified financing entity to charge interest of 3 percent to cover the costs of loan administration and personnel and program management, or for establishing a loan loss reserve.

(j) **REPORTING REQUIREMENTS.**—The Secretary of Energy shall report to the Congress on the implementation of this title, including the energy savings and cost savings estimated to be achieved, not later than 1 year after the date of enactment of this Act, and again by not later than 2 years after the date of enactment of this section.

(k) **ASSESSMENT BY GOVERNMENT ACCOUNTABILITY OFFICE.**—The Comptroller General shall, by not later than 18 months after the date of enactment of this Act, prepare and submit to the Congress an analysis and report determining—

- (1) the actual taxpayer funds made available for the program created in this section;

(2) the actual amounts of such funds made available to eligible participants or qualified consumers in the program created in this section;

(3) the extent of measured and verified residential energy savings achieved and expected to be achieved on an ongoing basis as a function of this program;

(4) the extent to which funds were made available to support commercial or industrial energy efficiency measures under this program;

(5) the extent to which funds made available were expended for training, administration, program support by contractors, or trade association activities under this program; and

(6) the consistency and rigor of the standards for energy efficiency and for measurement and verification adopted and implemented by this program.

(1) **AUTHORIZATION.**—There are authorized to be appropriated for purposes of this section \$850,000,000 for each of fiscal years 2010 through 2014, which shall remain available until expended.

SEC. 2. RURAL ENERGY SAVINGS PROGRAM.

(a) **DEFINITIONS.**—In this section:

(1) **ELIGIBLE ENTITY.**—The term “eligible entity” means—

(A) any public or cooperative electric utility that is eligible to borrow from the Rural Utilities Service electrification program authorized under the Rural Electrification Act of 1936 (7 U.S.C. 901 et seq.) that serves a rural area;

(B) any current borrower of the Rural Utilities Service electrification program authorized under that Act; or

(C) any entity primarily owned or controlled by an entity described in subparagraph (A) or (B).

(2) **ENERGY EFFICIENCY MEASURE.**—The term “energy efficiency measure”, with respect to property served by an eligible entity, means a fixed structural improvement and investment in a cost-effective, commercial off-the-shelf technology to reduce residential energy use that is either—

(A) included in the master list published under section 1(c)(1) and (2); or

(B) stipulated in a whole-house simulation conducted pursuant to section 1(c)(3).

(3) **FARM EFFICIENCY MEASURE.**—The term “farm efficiency measure” means an energy saving application that is a fixed improvement installed in or attached to a building or structure on a farm at a total loan value for that farm of \$50,000 or less, that is not otherwise an energy efficiency measure, and that would achieve energy savings sufficient to repay the cost of the measure in 10 years or fewer.

(4) **QUALIFIED CONSUMER.**—The term “qualified consumer” means a consumer served by an eligible entity that has the ability to repay a loan made under subsection (d), as determined by an eligible entity, and who has not accepted any loan as an eligible participant pursuant to section 1.

(5) **QUALIFIED ENTITY.**—The term “qualified entity” means any organization that the Secretary of Agriculture determines has significant experience in providing eligible entities with—

(A) advice on energy, environmental, energy efficiency, and information research and technology;

- (B) training, education, and consulting;
- (C) guidance in energy and operational issues and rural community and economic development; and
- (D) other relevant assistance, as determined by the Secretary of Agriculture.

(6) RURAL AREA.—The term “rural area” means any area other than—

- (A) a city or town that has a population of greater than 50,000 inhabitants; and
- (B) any urbanized area contiguous and adjacent to a city or town described in subparagraph (A).

(b) ESTABLISHMENT.—The Secretary of Agriculture, acting through the Rural Utility Service, shall establish the Rural Star Energy Savings Program for the purpose of making loans to eligible entities that agree to accept the loan funds authorized pursuant to this section to make loans to qualified consumers for the purpose of implementing residential energy efficiency measures or farm efficiency measures approved by the Secretary of Agriculture.

(c) LOANS TO ELIGIBLE ENTITIES.—

(1) LOANS AUTHORIZED.—Subject to paragraph (2), the Secretary of Agriculture shall make loans to an eligible entity that agrees that the loan funds will be used to make loans to qualified consumers as described in subsection (d) for the purpose of implementing one or more energy efficiency measures, or a farm efficiency measure in response to an application by an eligible entity.

(2) LIST, PLAN, AND MEASUREMENT AND VERIFICATION REQUIRED.—

(A) IN GENERAL.—As a condition to receiving a loan under paragraph (1), an eligible entity shall—

(i) establish a list of energy efficiency measures or farm efficiency measures expected to decrease energy use or costs of a qualified consumer from the master list published under section 1(c)(1) and (2);

(ii) establish a procedure to identify to the Secretary of Agriculture any specific farm efficiency measures for which the eligible entity seeks authority to make a loan;

(iii) prepare an implementation plan for use of the loan funds to ensure that a loan to a qualified consumer is for energy efficiency investments that will achieve savings sufficient to service the loan during the term of the loan; and

(iv) provide for appropriate measurement and verification as prescribed by the Secretary of Agriculture to ensure the actual use and effectiveness of the energy efficiency loans made by the eligible entity.

(B) REVISION OF LIST OF ENERGY EFFICIENCY MEASURES.—An eligible entity may update the list required under subparagraph (A)(i) to account for efficiency technologies added to the master list published under section 1(c)(1) pursuant to section 1(c)(2), or farm efficiency measures approved by the Secretary of Agriculture.

(C) EXISTING ENERGY EFFICIENCY PROGRAMS.—An eligible entity that, on or before the date of the enactment of

this Act, has already established an energy efficiency program for qualified consumers may submit an existing list of energy efficiency measures or farm efficiency measures, implementation plans, or measurement and verification systems to satisfy the requirements of subparagraph (A) to the Secretary of Agriculture and may use such list until and unless such list is inconsistent with the measures published pursuant to section 1(c)(1) and (2).

(3) LOAN TERMS FOR LOANS TO ELIGIBLE ENTITIES.—

(A) NO INTEREST.—A loan made to an eligible entity under paragraph (1) shall bear no interest.

(B) REPAYMENT.—With respect to a loan under paragraph (1)—

(i) the term shall not exceed 20 years from the date the loan is closed; and

(ii) except as provided in subparagraph (D), the repayment of each advance shall be amortized for a period not to exceed 10 years.

(C) AMOUNT OF ADVANCES.—Any advance of loan funds to an eligible entity in any single year shall not exceed 30 percent of the approved loan amount.

(D) SPECIAL ADVANCE FOR START-UP ACTIVITIES.—

(i) IN GENERAL.—In order to assist an eligible entity in defraying initial start-up costs, the Secretary of Agriculture shall allow an eligible entity to request a special advance.

(ii) AMOUNT OF SPECIAL ADVANCE.—No eligible entity may receive a special advance under this subparagraph for an amount that is greater than 4 percent of the loan amount received by the eligible entity under paragraph (1).

(iii) REPAYMENT.—The repayment of the special advance shall be required within 10 years after the special advance is made and, at the election of the eligible entity, may be deferred to the end of the 10-year period.

(E) LIMITATION ON ADVANCES.—All advances shall be made under a loan described in paragraph (1) within the first 10 years of the term of the loan.

(d) LOANS TO QUALIFIED CONSUMERS.—

(1) TERMS OF LOANS.—Loans made by an eligible entity to qualified consumers using loan funds provided by the Secretary of Agriculture under subsection (c)—

(A) may bear interest, not to exceed three percent, to be used by the eligible entity for purposes such as establishing a loan loss reserve and to offset personnel and program costs of the eligible entity to provide the loans;

(B) shall finance only energy efficiency measures or farm efficiency measures for the purpose of decreasing energy usage or costs of a qualified consumer by an amount such that a loan term of not more than 10 years will achieve a simple payback of the amount invested;

(C) shall not be used to fund purchases of, or modifications to, personal property unless the personal property—

(i) is or becomes attached to real property as a fixture; or

(ii) is a manufactured home;

(D) shall be repaid through charges added to the electric bill for the property for, or at which energy efficiency measures are or will be implemented, except that this requirement shall not be construed to prohibit—

(i) the voluntary prepayment of a loan by the owner of the property; or

(ii) the use of any additional repayment mechanisms that are—

(I) demonstrated to have appropriate risk mitigation features, as determined by the eligible entity; or

(II) required if the qualified consumer is no longer a customer of the eligible entity; and

(E) shall require an energy audit to determine the impact of proposed energy efficiency measures on the energy costs and consumption of the qualified consumer.

(2) CONTRACTORS.—In addition to any other qualified general contractor, eligible entities may serve as general contractors.

(3) USE OF OTHER ENERGY EFFICIENCY INCENTIVES.—Energy efficiency incentives made available under any other Act, including rebates, grants, or any other payments, may be used to reduce the amount of a loan made under this subsection to qualified consumers in order to meet the requirement of paragraph (1)(B).

(e) MEASUREMENT, VERIFICATION, TRAINING, AND TECHNICAL ASSISTANCE.—

(1) DUTIES OF THE SECRETARY.—The Secretary of Agriculture—

(A) shall establish an implementation and measurement and verification advisory committee consisting of representatives of eligible entities and qualified entities;

(B) may enter into cooperative agreements with qualified entities to provide technical assistance and training to the employees of eligible entities to carry out this section; and

(C) shall establish a process to compile and maintain a directory of energy efficiency auditors that are used by eligible entities to carry out this section.

(2) EXCEPTION.—

(A) The Secretary of Agriculture shall not utilize the authority provided under this subsection or subsection (j) to—

(i) develop, adopt, or implement a public labeling system that rates and compares the energy performance among qualified consumers; or

(ii) require the public disclosure of an energy performance evaluation or rating developed for any qualified consumer.

(B) Nothing in this paragraph shall preclude—

(i) the computation, collection, or use, by the Secretary of Agriculture, eligible entity, or qualified entity for the purposes of aggregating information on the rating and comparison of the energy performance among

qualified consumers with and without energy efficiency features or on energy performance evaluation or rating;

(ii) the use and publication of aggregate data (without identifying individual qualified consumers) based on information referred to in clause (i) to determine or demonstrate the performance of this program; or

(iii) the provision of information referred to in clause (i) with respect to a qualified consumer:

(I) to the State, eligible consumer, eligible entity, or qualified entity, as necessary to enable carrying out this title; or

(II) for purposes of prosecuting fraud and abuse.

(f) FAST START DEMONSTRATION PROJECTS.—The Secretary of Agriculture shall, not later than 90 days after the enactment of this section, enter into agreements with eligible entities (or groups of eligible entities) that have established an energy efficiency program described in subsection (c)(2)(C) to establish an energy efficiency loan demonstration projects consistent with the purposes of this section that—

(1) implement approaches to energy audits and investments in energy efficiency measures or farm efficiency measures that yield measurable and predictable savings;

(2) use measurement and verification processes to determine the effectiveness of energy efficiency loans made by eligible entities;

(3) include training for employees of eligible entities, including any contractors of such entities, to implement or oversee the activities described in paragraphs (1) and (2);

(4) provide for the participation of a majority of eligible entities in a State;

(5) reduce the need for generating capacity;

(6) provide efficiency loans to—

(A) not fewer than 20,000 consumers, in the case of a single eligible entity; or

(B) not fewer than 80,000 consumers, in the case of a group of eligible entities; and

(7) serve areas where 15 percent or more of consumers reside—

(A) in manufactured homes; or

(B) in housing units that are more than 50 years old.

(g) ADDITIONAL AUTHORITY.—The authority provided in this section is in addition to any authority of the Secretary of Agriculture to offer loans under any other law.

(h) EFFECTIVE PERIOD.—Except as otherwise provided in this section, the loans and other expenditures required to be made under this section are authorized to be made during each of fiscal years 2010 through 2014.

(i) REGULATIONS.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, not later than 180 days after the date of enactment of this section, the Secretary of Agriculture shall promulgate such regulations as are necessary to implement this section.

(2) PROCEDURE.—The promulgation of the regulations and administration of this section shall be made without regard to—

(A) chapter 35 of title 44, United States Code (commonly known as the “Paperwork Reduction Act”); and

(B) the Statement of Policy of the Secretary of Agriculture effective July 24, 1971 (36 Fed. Reg. 13804), relating to notices of proposed rulemaking and public participation in rulemaking.

(3) CONGRESSIONAL REVIEW OF AGENCY RULEMAKING.—In carrying out this section, the Secretary of Agriculture shall use the authority provided under section 808 of title 5, United States Code.

(4) INTERIM REGULATIONS.—Notwithstanding paragraphs (1) and (2), to the extent regulations are necessary to carry out any provision of this section, the Secretary of Agriculture shall implement such regulations through the promulgation of an interim rule.

(j) AUDIT OF PROGRAM.—The Secretary of Agriculture shall conduct an audit of the program authorized by this section to ensure that the funds provided to eligible entities under this section are used in accordance with the purpose of this section.

(k) REPORTING REQUIREMENTS.—The Secretary of Agriculture shall report to the Congress on the implementation of this Act, including the energy savings and costs savings estimated to be achieved, not later than 1 year after the date of enactment of this Act, and again not later than 2 years after the date of enactment of this Act.

(1) ASSESMENT BY GOVERNMENT ACCOUNTABILITY OFFICE.—The Comptroller General shall, by not later than 18 months after the date of enactment of this Act, prepare and submit to the Congress an analysis and report determining—

(1) the actual taxpayer funds made available for the program created in this section;

(2) the actual amounts of such funds made available to eligible entities for qualified consumers in the program created in this section;

(3) the extent of measured and verified energy savings achieved and expected to be achieved on an ongoing basis as a function of the program created in this section;

(4) the extent to which funds made available were expended for training, administration, and program support by eligible entities and qualified entities under the program created in this section; and

(5) the consistency and rigor of the standards for energy efficiency and for measurement and verification adopted and implemented by program created in this section.

(m) AUTHORIZATION.—There are authorized to be appropriated for purposes of this section \$150,000,000 for each of fiscal years 2010 through 2014, which shall remain available until expended.

PART B—TEXT OF THE AMENDMENTS TO BE MADE IN
ORDER

1. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE HOLDEN OF PENNSYLVANIA OR HIS DESIGNEE, DEBATABLE FOR 20 MINUTES

Page 1, line 17, strike “and”.

Page 1, after line 17, insert the following new subparagraph:

(B) is not an entity that has an ongoing capital repayment obligation to the Department of the Treasury pursuant to the Troubled Asset Relief Program (Public Law 110–343, 122 Stat. 3765); and

Page 2, line 1, redesignate subparagraph (B) as subparagraph (C).

Page 6, after line 18, insert the following new paragraph (and redesignate the subsequent paragraphs accordingly):

(2) will use the funds provided under this section to supplement and not supplant any prior or planned Federal and State funding provided to carry out energy efficiency programs, on the condition that, to the extent the Secretary finds that a State has supplanted other such programs with funding under this section, the Secretary may withhold an equivalent amount of funding from allocations for the State under this section;

Page 10, strike lines 5 through 7.

Page 10, line 8, strike “(5)” and insert “(4)”.

Page 10, line 12, strike “(6)” and insert “(5)”.

Page 10, line 17, after “this section” insert “, provided that enactment of this Act would not increase direct spending,”.

Page 18, strike lines 3 through 8 and insert the following:

(C) shall not be used to fund—

(i) the purchase of a manufactured home; or

(ii) the purchase of any other personal property unless the personal property is or becomes attached to real property as a fixture;

(D) shall not be used to fund modifications to personal property unless the personal property—

(i) is or becomes attached to real property as a fixture; or

(ii) is a manufactured home;

Page 18, line 9, strike “(D)” and insert “(E)”.

Page 18, line 24, strike “(E)” and insert “(F)”.

Page 20, line 8, strike “(j)” and insert “(i)”.

Page 25, line 19, after “this section” insert “, provided that enactment of this Act would not increase direct spending,”.

At the end, add the following:

SEC. 3. PROHIBITION.

Neither the Secretary of Energy nor the Secretary of Agriculture shall provide any funds authorized by this Act to any contractor that employs an employee to work in a consumer’s home if that employee has been convicted of, or plead guilty to, a crime of child molestation, rape, or any other form of sexual assault.

SEC. 4. FEDERAL EMPLOYEES.

(a) A loan shall not be provided to a Federal employee under this Act if any of the following apply to the employee:

(1) The employee has a seriously delinquent tax debt (as determined under subsection (b)).

(2) The employee received a payment under the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8621 et seq.) but was ineligible to receive the payment under the criteria described in section 2605(b)(2) of such Act (42 U.S.C. 8624(b)(2)).

(3) The employee has been officially disciplined for violations of subpart G of the Standards of Ethical Conduct for Employees of the Executive Branch for viewing, downloading, or exchanging pornography, including child pornography, on a Federal Government computer or while performing official Federal Government duties.

(b) For purposes of subsection (a)(1), a “seriously delinquent tax debt” means an outstanding debt under the Internal Revenue Code of 1986 for which a notice of lien has been filed in public records pursuant to section 6323 of such Code, except that such term does not include—

(1) a debt that is being paid in a timely manner pursuant to an agreement under section 6159 or section 7122 of such Code; or

(2) a debt with respect to which a collection due process hearing under section 6330 of such Code is requested, pending, or completed and no payment is required.

SEC. 5. WRONGFUL USE OR DIVERSION OF PROGRAM FUNDS.

The Secretary of Energy and the Secretary of Agriculture shall take such steps as are necessary and appropriate, including requirements for the immediate repayment of Federal assistance, to ensure that none of the funds authorized in this Act are used—

- (1) in violation of law;
- (2) in a manner that creates a significant threat to human health or safety;
- (3) in a manner that undercuts the integrity and accountability of the program under this Act; or
- (4) for purposes other than those serving the objectives of this Act.

2. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE CUELLAR OF TEXAS OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

At the end add the following:

(n) The Secretary of Agriculture shall provide assistance and technical advice to the qualified entities providing loans under this bill in conducting outreach for the purposes of increasing participation of economically distressed rural communities with unemployment rates above the national average, or rural areas that lack basic living necessities, such as water and sewer systems, electricity, and safe, sanitary housing, in the program established under this section.

3. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE CAROLYN MCCARTHY OF NEW YORK OR HER DESIGNEE, DEBATABLE FOR 10 MINUTES

At the end add the following:

SEC. ____ . PRIORITY FOR ACTIVE DUTY MEMBERS OF THE ARMED FORCES AND VETERANS.

In providing loans to eligible participants under section 1 or qualified consumers under section 2, the lender shall give priority to members of the Armed Forces serving on active duty and to veterans (as defined in section 101 of title 38, United States Code).

4. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE INSLEE OF WASHINGTON OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

Page 4, after line 12, insert the following:

In determining which residential energy efficiency measures to include in the list published under paragraph (1) or (2), the Secretary of Energy, in consultation with the Secretary of Agriculture, shall consider advanced performance initiatives, such as the Passive House Standard as certified by the Passive House Institute US.

