

HOME STAR ENERGY RETROFIT ACT OF 2010

APRIL 29, 2010.—Ordered to be printed

Mr. WAXMAN, from the Committee on Energy and Commerce,
submitted the following

R E P O R T

together with

MINORITY VIEWS

[To accompany H.R. 5019]

[Including cost estimate of the Congressional Budget Office]

The Committee on Energy and Commerce, to whom was referred the bill (H.R. 5019) to provide for the establishment of the Home Star Retrofit Rebate Program, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

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AMENDMENT

The amendment is as follows:
Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Home Star Energy Retrofit Act of 2010”.

SEC. 2. DEFINITIONS.

In this Act:

- (1) **ACCREDITED CONTRACTOR.**—The term “accredited contractor” means a qualified contractor—
- (A) that is accredited—
 - (i) by the BPI; or
 - (ii) under other standards approved by the Secretary, in consultation with the Administrator; and
 - (B) effective 1 year after the date of enactment of this Act, that uses a certified workforce.
- (2) **ADMINISTRATOR.**—The term “Administrator” means the Administrator of the Environmental Protection Agency.
- (3) **BPI.**—The term “BPI” means the Building Performance Institute.
- (4) **CERTIFIED WORKFORCE.**—The term “certified workforce” means a residential energy efficiency construction workforce in which all employees performing installation work are certified in the appropriate job skills under—
- (A) an applicable third party skills standard established by—
 - (i) BPI;
 - (ii) North American Technician Excellence;
 - (iii) the Laborers’ International Union of North America;
 - (B) an applicable third party skills standard established in the State in which the work is to be performed, pursuant to a program operated by the Home Builders Institute in connection with Ferris State University, to be effective 30 days after notice is provided by those organizations to the Secretary that such program has been established in such State, except to the extent that the Secretary determines within 30 days of such notice that the standard or certification is incomplete; or
 - (C) other standards approved by the Secretary, in consultation with the Secretary of Labor and the Administrator.
- (5) **CONDITIONED SPACE.**—The term “conditioned space” means the area of a home that is—
- (A) intended for habitation; and
 - (B) intentionally heated or cooled.
- (6) **DOE.**—The term “DOE” means the Department of Energy.
- (7) **ELECTRIC UTILITY.**—The term “electric utility” means any person, State agency, rural electric cooperative, municipality, or other governmental entity that delivers or sells electric energy at retail, including nonregulated utilities and utilities that are subject to State regulation and Federal power marketing administrations.
- (8) **EPA.**—The term “EPA” means the Environmental Protection Agency.
- (9) **FEDERAL REBATE PROCESSING SYSTEM.**—The term “Federal Rebate Processing System” means the Federal Rebate Processing System established under section 101(b).
- (10) **GOLD STAR HOME ENERGY RETROFIT PROGRAM.**—The term “Gold Star Home Energy Retrofit Program” means the Gold Star Home Energy Retrofit Program established under section 104.
- (11) **HOME.**—The term “home” means a principal residential dwelling unit in a building with no more than 4 dwelling units that—
- (A) is located in the United States; and
 - (B) was constructed before the date of enactment of this Act.
- (12) **HOME STAR LOAN PROGRAM.**—The term “Home Star Loan Program” means the Home Star Energy Efficiency Loan Program established under section 111.
- (13) **INDIAN TRIBE.**—The term “Indian tribe” has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).
- (14) **NATIONAL HOME PERFORMANCE COUNCIL.**—The term “National Home Performance Council” means the National Home Performance Council, Inc.
- (15) **NATURAL GAS UTILITY.**—The term “natural gas utility” means any person or State agency that transports, distributes, or sells natural gas at retail, including nonregulated utilities and utilities that are subject to State regulation.
- (16) **QUALIFIED CONTRACTOR.**—The term “qualified contractor” means a residential energy efficiency contractor meeting minimum applicable requirements as determined under section 101(c).
- (17) **QUALITY ASSURANCE FRAMEWORK.**—The term “quality assurance framework” means a policy structure adopted by a State to develop high standards

for ensuring quality in ongoing energy efficiency retrofit activities in which the State has a role, including operation of the quality assurance program, while creating significant employment opportunities, in particular for targeted workers.

(18) **QUALITY ASSURANCE PROGRAM.**—

(A) **IN GENERAL.**—The term “quality assurance program” means a program authorized under this Act to oversee the delivery of home efficiency retrofit programs to ensure that work is performed in accordance with standards and criteria established under this Act.

(B) **INCLUSIONS.**—For purposes of subparagraph (A), delivery of retrofit programs includes field inspections required under this Act, with the consent of participating consumers and without delaying rebate payments to participating contractors and vendors.

(19) **QUALITY ASSURANCE PROVIDER.**—

(A) **IN GENERAL.**—The term “quality assurance provider” means any entity that is authorized pursuant to this Act to perform field inspections and other measures required to confirm the compliance of retrofit work with the requirements of this Act.

(B) **CERTIFICATION REQUIREMENT.**—To be considered a quality assurance provider under this paragraph, an entity shall be certified through—

- (i) the International Code Council;
- (ii) the BPI;
- (iii) the RESNET;
- (iv) a State;
- (v) a State-approved residential energy efficiency retrofit program; or
- (vi) any other entity designated for such purpose by the Secretary, in consultation with the Administrator.

(20) **REBATE AGGREGATOR.**—The term “rebate aggregator” means an entity that meets the requirements of section 102.

(21) **RESNET.**—The term “RESNET” means the Residential Energy Services Network.

(22) **SECRETARY.**—The term “Secretary” means the Secretary of Energy.

(23) **SILVER STAR HOME ENERGY RETROFIT PROGRAM.**—The term “Silver Star Home Energy Retrofit Program” means the Silver Star Home Energy Retrofit Program established under section 103.

(24) **STATE.**—The term “State” means—

- (A) a State;
- (B) the District of Columbia;
- (C) the Commonwealth of Puerto Rico;
- (D) Guam;
- (E) American Samoa;
- (F) the United States Virgin Islands;
- (G) the Northern Mariana Islands; and
- (H) any other commonwealth, territory, or possession of the United States.

(25) **TARGETED WORKER.**—The term “targeted worker” means an individual who is unemployed or underemployed and of an employable age and a resident of an area with high or chronic unemployment and low median household incomes, as defined by the Secretary in consultation with the Secretary of Labor.

(26) **WATER UTILITY.**—The term “water utility” means any State or local agency that delivers or sells water at wholesale or retail through an engineered distribution system.

TITLE I—HOME STAR RETROFIT REBATE PROGRAM

SEC. 101. HOME STAR RETROFIT REBATE PROGRAM.

(a) **IN GENERAL.**—The Secretary shall establish the Home Star Retrofit Rebate Program.

(b) **FEDERAL REBATE PROCESSING SYSTEM.**—

(1) **IN GENERAL.**—Not later than 30 days after the date of enactment of this Act, the Secretary, in consultation with the Secretary of the Treasury and the Administrator, shall—

(A) establish a Federal Rebate Processing System which shall serve as a database and information technology system to allow rebate aggregators to submit claims for reimbursement using standard data protocols;

(B) establish a national retrofit website that provides information on the Home Star Retrofit Rebate Program, including how to determine whether particular energy efficiency measures are eligible for rebate and how to participate in the program; and

- (C) publish model forms and data protocols for use by contractors, vendors, and quality assurance providers to comply with the requirements of this title.
- (2) MODEL CERTIFICATION FORMS.—In carrying out this section, the Secretary shall consider the model certification forms developed by the National Home Performance Council.
- (c) QUALIFIED CONTRACTOR REQUIREMENTS.—A qualified contractor may perform retrofit work for which rebates are authorized under this title only if it executes a Home Star participation agreement with a rebate aggregator affirming that it meets applicable requirements, including—
- (1) all applicable State contractor licensing requirements or, with respect to a State that has no such requirements, any appropriate comparable requirements established under paragraph (6);
 - (2) insurance coverage of at least \$1,000,000 for general liability, and for such other purposes and in such other amounts as may be required by the State;
 - (3) agreeing to provide warranties to homeowners that completed work will—
 - (A) be free of significant defects;
 - (B) be installed in accordance with the specifications of the manufacturer; and
 - (C) perform properly for a period of at least 1 year after the date of completion of the work;
 - (4) agreeing to pass through to the owner of a home, through a discount, the full economic value of all rebates received under this title with respect to the home;
 - (5) agreeing to provide to the homeowner a notice of—
 - (A) the amount of the rebate the contractor intends to apply for with respect to the eligible work under this title, before a contract is executed between the contractor and a homeowner covering the eligible work; and
 - (B) the means by which the rebate will be passed through as a discount to the homeowner;
 - (6) all requirements of an applicable State quality assurance framework by and after the date that is one year after the date of enactment of this Act; and
 - (7) any other appropriate requirements as determined by the Secretary, in consultation with the Administrator.
- (d) ADMINISTRATIVE AND TECHNICAL SUPPORT.—Subject to section 112(b) and (c), beginning not later than 30 days after the date of enactment of this Act, the Secretary shall provide such administrative and technical support to rebate aggregators and States as is necessary to carry out this title.
- (e) ADMINISTRATION.—
- (1) APPOINTMENT OF PERSONNEL.—Notwithstanding the provisions of title 5, United States Code, governing appointments in the competitive service and General Schedule classifications and pay rates, the Secretary may appoint such professional and administrative personnel as the Secretary considers necessary to carry out this title.
 - (2) RATE OF PAY.—The rate of pay for a person appointed under paragraph (1) shall not exceed the maximum rate payable for GS-15 of the General Schedule under chapter 53 of title 5, United States Code.
 - (3) CONSULTANTS.—Notwithstanding section 303 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253), the Secretary may retain such consultants on a noncompetitive basis as the Secretary considers necessary to carry out this title.
 - (4) CONTRACTING.—In carrying out this title, the Secretary may waive all or part of any provision of the Competition in Contracting Act of 1984 (Public Law 98-369; 98 Stat. 1175), an amendment made by that Act, or the Federal Acquisition Regulation on a determination that circumstances make compliance with the provisions contrary to the public interest.
 - (5) REGULATIONS.—
 - (A) IN GENERAL.—Notwithstanding section 553 of title 5, United States Code, the Secretary may issue regulations that the Secretary, in the sole discretion of the Secretary, determines necessary to—
 - (i) establish;
 - (ii) achieve full operational status within 60 days after the date of enactment of this Act for; or
 - (iii) carry out,
 the Home Star Retrofit Rebate Program.
 - (B) TIMING.—If the Secretary determines that regulations described in subparagraph (A) are necessary, the regulations shall be issued not later than 60 days after such determination.

(C) EXCEPTION.—(i) The Secretary shall not utilize the authority provided under this paragraph to—

(I) develop, adopt, or implement a public labeling system that rates and compares the energy performance of one home with another; or

(II) require the public disclosure of an energy performance evaluation or rating developed for any specific home.

(ii) Nothing in this subparagraph shall preclude—

(I) the computation, collection, or use, by the Secretary, rebate aggregators, quality assurance providers, or States for the purposes of carrying out sections 104 and 105, of information on the rating and comparison of the energy performance of homes with and without energy efficiency features or on energy performance evaluation or rating;

(II) the use and publication of aggregate data (without identifying individual homes or participants) based on information referred to in subclause (I) to determine or demonstrate the performance of the Home Star program; or

(III) the provision of information referred to in subclause (I) with respect to a specific home—

(aa) to the State, homeowner, quality assurance provider, rebate aggregator, or contractor performing retrofit work on that home, or an entity providing Home Star services, as necessary to enable carrying out this title; or

(bb) for purposes of prosecuting fraud and abuse.

(6) INFORMATION COLLECTION.—Chapter 35 of title 44, United States Code, shall not apply to any information collection requirement necessary for the implementation of the Home Star Retrofit Rebate Program.

(7) EFFECTIVE PERIOD.—Paragraphs (1), (3), (4), (5), and (6) shall be effective only for fiscal years 2010 and 2011.

(f) PROGRAM REVIEW.—Not later than 180 days after the date of enactment of this Act, the Secretary shall prepare and transmit to Congress a State-by-State analysis and review the distribution of Home Star retrofit rebates under this title.

(g) ADJUSTMENT OF REBATE AMOUNTS.—Effective beginning on the date that is 180 days after the date of enactment of this Act, the Secretary may, after not less than 30 days public notice, prospectively adjust the rebate amounts provided for under this title as necessary to optimize the overall energy efficiency resulting from the Silver Star Home Energy Retrofit Program and the Gold Star Home Energy Retrofit Program.

(h) INDIAN TRIBE PARTICIPATION.—

(1) IN GENERAL.—An Indian tribe, within 30 days after the date of enactment of this Act, may indicate to the Secretary its intention to act in place of a State for purposes of carrying out the responsibilities of the State under this title with respect to its tribal lands. If the Indian tribe so indicates, the Secretary shall treat the Indian tribe as the State for purposes of carrying out this title with respect to those tribal lands.

(2) TRANSITION OF RESPONSIBILITIES.—The Secretary may permit an Indian tribe, after the expiration of 30 days after the date of enactment of this Act, to assume the responsibilities of a State under this title with respect to its tribal lands if the Secretary finds that such assumption of responsibilities will not disrupt the ongoing administration of the program under this title.

(3) COOPERATION.—An Indian tribe may cooperate with a State or the Secretary to ensure that all of the requirements of this title are carried out with respect to the tribal lands.

(i) IMPLEMENTATION BY SECRETARY.—

(1) IN GENERAL.—If a State has not indicated to the Secretary within 30 days after the date of enactment of this Act that it is prepared to carry out section 105, or if at any later time the Secretary determines that a State is no longer prepared to carry out section 105, to the extent that no Indian tribe assumes such responsibilities under subsection (h) the Secretary shall assume the responsibilities of that State with respect to carrying out section 105.

(2) TRANSITION OF RESPONSIBILITIES.—The Secretary may permit a State, after the Secretary has assumed the responsibilities of that State under paragraph (1), to assume the responsibilities assigned to States under section 105 with respect to that State if the Secretary finds that such assumption of responsibilities will not disrupt the ongoing administration of the program under this title.

(j) LIMITATION.—Rebates may not be provided under both section 103 and section 104 with respect to the same home.

(k) FORMS FOR CERTIFICATION AND QUALITY ASSURANCE.—

(1) **IN GENERAL.**—Not later than 30 days after the date of enactment of this Act, the Secretary shall make available on the website established under subsection (b)(1)(B), model certification forms for compliance with quality assurance requirements under this title, to be submitted by—

(A) each qualified contractor, accredited contractor, and quality assurance provider on completion of an eligible home energy retrofit; and

(B) each quality assurance provider on completion of field verification required under this section.

(2) **NATIONAL HOME PERFORMANCE COUNCIL.**—The Secretary, States, and Indian tribes shall consider and may use model certification forms developed by the National Home Performance Council to ensure compliance with quality assurance requirements under this title.

(l) **PUBLIC-PRIVATE PARTNERSHIPS.**—A State that receives a grant under this title is encouraged to form partnerships with utilities, energy service companies, and other entities—

(1) to assist in marketing the Home Star Retrofit Rebate Program;

(2) to facilitate consumer financing;

(3) to assist in implementation of the Silver Star Home Energy Retrofit Program and the Gold Star Home Energy Retrofit Program, including installation of qualified energy retrofit measures; and

(4) to assist in implementing quality assurance programs.

(m) **COORDINATION OF REBATE AND EXISTING STATE-SPONSORED PROGRAMS.**—

(1) **IN GENERAL.**—A State shall, to the maximum extent practicable, prevent duplication through coordination of a program authorized under this title with—

(A) the Energy Star appliance rebates program authorized under section 124 of the Energy Policy Act of 2005 (42 U.S.C. 15821), and any other Federal programs that provide funds to States for home or appliance energy efficiency purposes; and

(B) comparable programs planned or operated by States, political subdivisions, electric and natural gas utilities, Federal power marketing administrations, and Indian tribes.

(2) **EXISTING PROGRAMS.**—In carrying out this subsection, a State shall—

(A) give priority to—

(i) comprehensive retrofit programs in existence on the date of enactment of this Act, including programs under the supervision of State utility regulators; and

(ii) using funds made available under this title to enhance and extend existing programs; and

(B) seek to enhance and extend existing programs by coordinating with administrators of the programs.

(n) **HEALTH AND SAFETY REQUIREMENTS.**—Nothing in this title shall relieve any contractor from the obligation to comply with applicable Federal, State, and local health and safety code requirements.

SEC. 102. REBATE AGGREGATORS.

(a) **IN GENERAL.**—The Secretary shall develop a network of rebate aggregators that can facilitate the delivery of rebates to participating contractors and vendors, to reimburse those contractors and vendors for discounts provided to homeowners for energy efficiency retrofit work. The Secretary shall approve or deny an application from a person seeking to become a rebate aggregator not later than 30 days after receiving such application. The Secretary may disqualify any rebate aggregator that fails to meet its obligations under this title in a timely and competent manner.

(b) **AVAILABILITY.**—Not later than 30 days after the date of enactment of this Act, the Secretary shall identify at least 1 rebate aggregator in each State ready and able to accept rebate applications from any qualified contractor. Not later than 90 days after such date of enactment, the Secretary shall ensure that rebate aggregation services are available to all homeowners in the United States at the lowest reasonable cost.

(c) **RESPONSIBILITIES.**—Rebate aggregators shall—

(1) review each proposed rebate application for completeness and accuracy;

(2) review all measures for which rebates are sought for eligibility in accordance with this title;

(3) provide data to the Secretary for inclusion in the database maintained through the Federal Rebate Processing System, consistent with data protocols established by the Secretary;

(4) not later than 30 days after the date of receipt, distribute funds received from the Secretary to contractors, vendors, or other persons in accordance with

approved claims for reimbursement made to the Federal Rebate Processing System;

(5) maintain appropriate accounting for rebate applications processed, and their disposition;

(6) review contractor qualifications and accreditation and retain documentation of such qualification and accreditation, as required for contractors to be authorized to perform residential energy efficiency retrofit work under this title; and

(7) maintain information regarding contractors' fulfillment of the requirements of section 101(c).

(d) **ELIGIBILITY.**—To be eligible to apply to the Secretary for approval as a rebate aggregator, an entity—

(1) shall be—

(A) a Home Performance with Energy Star partner;

(B) an entity administering a residential energy efficiency retrofit program established or approved by a State;

(C) a Federal power marketing administration or the Tennessee Valley Authority;

(D) an electric utility, natural gas utility, or water utility administering or offering a residential energy efficiency retrofit program; or

(E) an entity—

(i) with corporate status or status as a State or local government;

(ii) who can demonstrate adequate financial capability to manage a rebate aggregator program, as evidenced by audited financial records; and

(iii) whose participation in the program, in the judgment of the Secretary, would not disrupt existing residential retrofit programs in the States that are carrying out the Home Star Retrofit Rebate Program under this title;

(2) must be able to demonstrate—

(A) a relationship with 1 or more independent quality assurance providers that is sufficient to meet the volume of contracting services delivered;

(B) the capability to provide such electronic data as is required by the Secretary to the Federal Rebate Processing System; and

(C) a financial system that is capable of tracking the distribution of rebates to participating contractors and vendors; and

(3) shall include in its application the amount it proposes to charge for the review and processing of a rebate under this title.

(e) **PROMPT PROCESSING OF REBATES.**—Within 10 days after receiving an application for a rebate consistent with this title, a rebate aggregator shall submit a claim for that rebate to the Federal Rebate Processing System. Within 10 days after the Federal Rebate Processing System receives such a submission from a rebate aggregator, the Secretary shall provide the funds to the rebate aggregator necessary to pay such rebates to the qualified contractor or vendor who applied for them and to compensate the rebate aggregator for its services in accordance with this title. Within 10 days of being provided such funds, the rebate aggregator shall pay the rebates to the rebate applicant.

(f) **PUBLIC UTILITY COMMISSION EFFICIENCY TARGETS.**—The Secretary shall—

(1) develop guidelines for States to use to allow utilities participating as rebate aggregators to count the energy savings from their participation toward State-level energy savings targets; and

(2) work with States to assist in the adoption of these guidelines for the purposes and duration of the Home Star Retrofit Rebate Program.

SEC. 103. SILVER STAR HOME ENERGY RETROFIT PROGRAM.

(a) **IN GENERAL.**—During the first year after the date of enactment of this Act, a Silver Star Home Energy Retrofit Program rebate shall be awarded, subject to the maximum amount limitations under subsection (d)(4), to participating contractors and vendors, to reimburse them for discounts provided to the owner of the home for the retrofit work, for the installation of energy savings measures—

(1) selected from the list of energy savings measures described in subsection

(b);

(2) installed after the date of enactment of this Act in the home by a qualified contractor; and

(3) carried out in compliance with this section.

(b) **ENERGY SAVINGS MEASURES.**—Subject to subsection (c), a rebate shall be awarded under subsection (a) for the installation of the following energy savings

measures for a home energy retrofit that meet technical standards established under this section:

- (1) Whole house air sealing measures, including interior and exterior measures, utilizing sealants, caulks, polyurethane foams, gaskets, weather-stripping, mastics, and other building materials in accordance with BPI standards or other procedures approved by the Secretary.
- (2) Attic insulation measures that—
 - (A) include sealing of air leakage between the attic and the conditioned space, in accordance with BPI standards or the attic portions of the DOE or EPA thermal bypass checklist or other procedures approved by the Secretary;
 - (B) add at least R-19 insulation to existing insulation;
 - (C) result in at least R-38 insulation in DOE climate zones 1 through 4 and at least R-49 insulation in DOE climate zones 5 through 8, including existing insulation, within the limits of structural capacity; and
 - (D) cover at least—
 - (i) 100 percent of an accessible attic; or
 - (ii) 75 percent of the total conditioned footprint of the house.
- (3) Duct seal or replacement that—
 - (A) is installed in accordance with BPI standards or other procedures approved by the Secretary; and
 - (B) in the case of duct replacement, replaces at least 50 percent of a distribution system of the home.
- (4) Wall insulation that—
 - (A) is installed in accordance with BPI standards or other procedures approved by the Secretary;
 - (B) is to full-stud thickness; and
 - (C) covers at least 75 percent of the total external wall area of the home.
- (5) Crawl space insulation or basement wall and rim joist insulation that is installed in accordance with BPI standards or other procedures approved by the Secretary and—
 - (A) covers at least 500 square feet of crawl space or basement wall and adds at least—
 - (i) R-19 of cavity insulation or R-15 of continuous insulation to existing crawl space insulation; or
 - (ii) R-13 of cavity insulation or R-10 of continuous insulation to basement walls; and
 - (B) fully covers the rim joist with at least R-10 of new continuous or R-13 of cavity insulation.
- (6) Window replacement that replaces at least 8 exterior windows or skylights, or 75 percent of the exterior windows and skylights in a home, whichever is less, with—
 - (A) windows that—
 - (i) are certified by the National Fenestration Rating Council; and
 - (ii) comply with criteria applicable to windows and skylights under section 25(c) of the Internal Revenue Code of 1986; or
 - (B) skylights that comply with the 2010 Energy Star specification for skylights.
- (7) Door replacement that replaces at least 1 exterior door with doors that comply with the 2010 Energy Star specification for doors.
- (8)(A) Heating system replacement of—
 - (i) a natural gas or propane furnace with a furnace that has an AFUE rating of 92 or greater;
 - (ii) a natural gas or propane boiler with a boiler that has an AFUE rating of 90 or greater;
 - (iii) an oil furnace with a furnace that has an AFUE rating of 86 or greater and that uses an electrically commutated blower motor;
 - (iv) an oil boiler with a boiler that has an AFUE rating of 86 or greater and that has temperature reset or thermal purge controls; or
 - (v) a wood or wood pellet furnace, boiler, or stove, if—
 - (I) the new system—
 - (aa) meets at least 75 percent of the heating demands of the home;
 - (bb) in the case of a furnace or boiler, has a distribution system (such as ducts or vents) that allows heat to reach all or most parts of the home and qualifies for Phase 2 of the EPA Voluntary Program for Hydronic Heaters; and
 - (cc) in the case of a stove, replaces an existing wood or wood pellet stove and is certified by the EPA, and a voucher is provided by

- the installer or other responsible party certifying that the old stove has been removed and rendered inoperable or recycled at an appropriate recycling facility; and
- (II) an accredited independent laboratory recognized by the EPA certifies that the new system—
- (aa) has thermal efficiency (lower heating value) of at least 75 percent for stoves and at least 90 percent for furnaces and boilers; and
 - (bb) has particulate emissions of less than 3.0 grams per hour for stoves, and less than 0.32 lbs/mmBTU for furnaces and boilers.
- (B) A rebate may be provided under this section for the replacement of a furnace or boiler described in clauses (i) through (iv) of subparagraph (A) only if the new furnace or boiler is installed in accordance with ANSI/ACCA Standard 5 QI-2007.
- (9) Air conditioner or air-source heat pump replacement with a new unit that—
- (A) is installed in accordance with ANSI/ACCA Standard 5 QI-2007; and
 - (B) meets or exceeds—
 - (i) in the case of an air conditioner, SEER 16 and EER 13; and
 - (ii) in the case of an air-source heat pump, SEER 15, EER 12.5, and HSPF 8.5.
- (10) Heating or cooling system replacement with an Energy Star qualified geothermal heat pump that meets Tier 2 efficiency requirements and that is installed in accordance with ANSI/ACCA Standard 5 QI-2007.
- (11) Replacement of a natural gas, propane, or electric water heater with—
- (A) a natural gas or propane condensing storage water heater with an energy factor of 0.80 or more or a thermal efficiency of 90 percent or more;
 - (B) a tankless natural gas or propane water heater with an energy factor of at least .82;
 - (C) a natural gas or propane storage water heater with an energy factor of at least .67;
 - (D) an indirect water heater with an insulated storage tank that—
 - (i) has a storage capacity of at least 30 gallons and is insulated to at least R-16; and
 - (ii) is installed in conjunction with a qualifying boiler described in paragraph (8);
 - (E) an electric water heater with an energy factor of 2.0 or more;
 - (F) an electric tankless water heater with an efficiency factor of .96 or more, that operates on not greater than 25 kilowatts;
 - (G) a solar hot water system that—
 - (i) is certified by the Solar Rating and Certification Corporation; or
 - (ii) meets technical standards established by the State of Hawaii; or
 - (H) a water heater installed in conjunction with a qualifying geothermal heat pump described in paragraph (10) that provides domestic water heating through the use of a desuperheater or demand water heating capability.
- (12) Storm windows that—
- (A) are installed on at least 5 existing single-glazed windows that do not have storm windows;
 - (B) are installed in a home listed on or eligible for listing in the National Register of Historic Places; and
 - (C) comply with any procedures that the Secretary may set for storm windows and their installation.
- (13) Window film that is installed on at least 8 exterior windows, doors, or skylights, or 75 percent of the total exterior square footage of glass in a home, whichever is less, with window films that—
- (A) are certified by the National Fenestration Rating Council; and
 - (B) have—
 - (i) a solar heat gain coefficient of 0.43 or less with a visible light-to-solar heat gain coefficient of at least 1.1 in 2009 International Energy Conservation Code climate zones 1-3; or
 - (ii) a solar heat gain coefficient of 0.43 or less with a visible light-to-solar heat gain coefficient of at least 1.1 and a U-factor of 0.40 or less as installed in 2009 International Energy Conservation Code climate zones 4-8.
- (c) INSTALLATION COSTS.—Measures described in paragraphs (1) through (13) of subsection (b) shall include expenditures for labor and other installation-related costs, including venting system modification and condensate disposal, properly allocable to the onsite preparation, assembly, or original installation of the component.
- (d) AMOUNT OF REBATE.—

(1) IN GENERAL.—Except as provided in paragraphs (2) through (4), the amount of a rebate provided under subsection (a) shall be \$1,000 per measure for the installation of energy savings measures described in subsection (b).

(2) HIGHER REBATE AMOUNT.—Except as provided in paragraph (4), the amount of a rebate provided under subsection (a) shall be \$1,500 per measure for—

(A) attic insulation and air sealing described in subsection (b)(1) or (2); and

(B) wall insulation described in subsection (b)(4).

(3) LOWER REBATE AMOUNT.—Except as provided in paragraph (4), the amount of a rebate provided under subsection (a) shall be—

(A) \$125 per door for the installation of up to a maximum of 2 Energy Star doors described in subsection (b)(7) for each home;

(B) \$250 for a maximum of 1 natural gas or propane storage water heater described in subsection (b)(11)(C) for each home;

(C) \$250 for rim joist insulation described in subsection (b)(5)(B);

(D) \$50 for each storm window described in subsection (b)(12), with a minimum of 5 storm windows and a maximum of 12;

(E) \$250 each for a maximum of 4 electric tankless water heaters described in subsection (b)(11)(F) for each home; and

(F) \$500 for window film described in subsection (b)(13).

(4) MAXIMUM AMOUNT.—The total amount of rebates provided for a home under this section shall not exceed the lower of—

(A) \$3,000;

(B) 50 percent of the total cost of the installed measures; or

(C) if the Secretary finds that the net value to the homeowner of the rebates, as a function of the discount the contractor or vendor provides to the homeowner for the installed measures, is less than the amount of the rebates, the actual net value to the homeowner.

(e) VERIFICATION AND CORRECTION OF WORK.—

(1) REIMBURSEMENT.—On submission of a claim by a rebate aggregator to the Federal Rebate Processing System, the Secretary shall provide reimbursement to the rebate aggregator for energy-efficiency measures installed in a home, subject to paragraphs (2) and (3).

(2) VERIFICATION.—

(A) PERCENTAGE OF RETROFITS VERIFIED.—

(i) IN GENERAL.—Except as provided in clause (ii), not less than—

(I) 20 percent of the retrofits performed by each qualified contractor under this section with respect to a rebate described in subsection (a) shall be randomly subject to field verification by an independent quality assurance provider of all work associated with the retrofit; and

(II) in the case of a qualified contractor that uses a certified workforce, 10 percent of the retrofits performed by that contractor under this section with respect to a rebate described in subsection (a) shall be randomly subject to field verification by an independent quality assurance provider of all work associated with the retrofit.

(ii) EXCEPTIONS.—In the case of a qualified contractor whose previous retrofit work—

(I) the Secretary has found to fail to comply with the requirements of this section, the Secretary may establish a higher percentage of the retrofits performed by that contractor under this section with respect to a rebate described in subsection (a) to be subject to field verification by an independent quality assurance provider; and

(II) the Secretary has found to successfully comply with the requirements of this section, the Secretary may establish a lower percentage of the retrofits performed by that contractor under this section with respect to a rebate described in subsection (a) to be subject to field verification by an independent quality assurance provider.

(B) HOMEOWNER COMPLAINT.—A homeowner may make a complaint under the quality assurance program that compliance with the quality assurance requirements of this title has not been achieved. The quality assurance program shall provide that, upon receiving such a complaint, an independent quality assurance provider shall conduct field verification on the retrofit work performed by the contractor. Verifications under this subparagraph shall be in addition to those conducted under subparagraph (A), and shall be corrected in accordance with paragraph (3).

(3) CORRECTION.—Rebates under subsection (a) shall be made subject to the following conditions:

(A) The installed measures will comply with the specifications and quality standards under this section if a field verification by a quality assurance provider finds that corrective work is needed. Such compliance shall be achieved by the installing accredited contractor not later than 14 days after the date of notification of a defect pursuant to a warranty, provided at no additional cost to the homeowner.

(B) A subsequent quality assurance visit shall be conducted to evaluate the remedy not later than 7 days after notification that the defect has been corrected.

(C) The quality assurance provider shall notify the contractor of the disposition of such visit not later than 7 days after the date of the visit.

(4) ACCESS TO HOME.—In order to be eligible for a discount from a contractor or vendor for which a rebate is provided under subsection (a), a homeowner shall agree to permit such access to the home, upon reasonable notice and at a mutually convenient time, as is necessary to verify and correct retrofit work.

(f) PRODUCTS PURCHASED WITHOUT INSTALLATION SERVICES.—

(1) IN GENERAL.—A Silver Star Home Energy Retrofit Program rebate shall be awarded for attic, wall, and crawl space insulation and air-sealing products that—

(A)(i) in the case of insulation, qualify for a tax credit under section 25C of the Internal Revenue Code of 1986, but with respect to which no claim for such a tax credit has been made; and

(ii) in the case of air sealing products, are sealants, caulks, polyurethane foams, gaskets, weather-stripping, mastics, or other air sealing products described in subsection (b)(1);

(B) are purchased by a homeowner for installation by the homeowner in a home identified by its address by the homeowner;

(C) are accompanied by educational materials on proper installation of the products, including materials emphasizing the importance of air sealing when insulating; and

(D) are identified and attributed to that home in a rebate submission by the vendor to a rebate aggregator.

(2) LIMITATION.—No rebate may be provided under this subsection with respect to insulation or products that are employed in energy-efficiency measures with respect to which a rebate is provided under this section or section 104.

(3) AMOUNT OF REBATE.—A rebate under this subsection shall be awarded for 50 percent of the total cost of the products described in paragraph (1), not to exceed \$250 per home.

(g) REVIEW.—

(1) IN GENERAL.—The Secretary shall determine whether information submitted to the Federal Rebate Processing System with respect to a rebate was complete, and on the basis of that information and other information available to the Secretary, shall determine whether the requirements of this section were met in all respects.

(2) INCORRECT PAYMENT.—On a determination of the Secretary under paragraph (1) that a payment was made incorrectly to a party, or that sufficient information was not submitted to the Federal Rebate Processing System to enable such determination, the Secretary—

(A) may—

(i) recoup the amount of the incorrect payment; or

(ii) withhold the amount of the incorrect payment from a payment made to the party pursuant to a subsequent request; and

(B) shall, to the extent the Secretary determines the benefit of the rebate was not passed through to the homeowner through a discount on the price of the retrofit work, order the contractor or vendor to pay the amount of rebate benefit not previously passed through to the homeowner.

SEC. 104. GOLD STAR HOME ENERGY RETROFIT PROGRAM.

(a) IN GENERAL.—A Gold Star Home Energy Retrofit Program rebate shall be awarded, subject to subsection (b), to participating accredited contractors and vendors, to reimburse them for discounts provided to the owner of the home for the retrofit work, for retrofits that achieve whole home energy savings carried out after the date of enactment of this Act in accordance with this section.

(b) ELIGIBLE MEASURES.—Rebates may be provided under this section for —

(1) any measure listed as eligible for Silver Star rebates in section 103; and

(2) any other energy-saving measure, such as home energy management systems, high-efficiency appliances, highly reflective roofing, awnings, canopies,

and similar external fenestration attachments, automatic boiler water temperature controllers, and mechanical air circulation and heat exchangers in a passive-solar home—

(A) that can be demonstrated, when installed and operated as intended, to improve energy efficiency; and

(B) for which an energy efficiency contribution can be determined with confidence.

(c) ENERGY SAVINGS.—

(1) IN GENERAL.—Reductions in whole home energy consumption under this section shall be determined by a comparison of the simulated energy consumption of the home before and after the retrofit of the home.

(2) DOCUMENTATION.—The percent improvement in energy consumption of a home under this section shall be documented through—

(A)(i) the use of a whole home simulation software program that has been approved under the Weatherization Assistance Program for Low-Income Persons established under part A of title IV of the Energy Conservation and Production Act (42 U.S.C. 6861 et seq.); or

(ii) a equivalent performance test established by the Secretary, in consultation with the Administrator; or

(B)(i) the use of a whole home simulation software program that has been approved under RESNET Publication No. 06–001 (or a successor publication approved by the Secretary);

(ii) an equivalent performance test established by the Secretary, in consultation with the Administrator;

(iii) a State-certified equivalent rating network, as specified by IRS Notice 2008–35; or

(iv) a HERS rating system approved or required by the law of the State in which the home is located.

(3) MONITORING.—The Secretary—

(A) shall continuously monitor the software programs used for determining rebates under this section; and

(B) may disallow the use of software programs that improperly assess energy savings.

(4) ASSUMPTIONS AND TESTING.—The Secretary may—

(A) establish simulation software program assumptions for carrying out paragraph (2);

(B) require compliance with software program performance tests covering—

(i) mechanical system performance;

(ii) duct distribution system efficiency;

(iii) hot water performance; or

(iv) other measures; and

(C) require the simulation of pre-retrofit energy usage to be determined by metered pre-retrofit energy usage.

(5) RECOMMENDED MEASURES.—Software programs used under this subsection shall have the ability at a minimum to assess the savings associated with all the measures for which rebates are specifically provided under the Silver Star Home Energy Retrofit Program.

(d) AMOUNT OF REBATE.—Subject to subsection (e)(2), the amount of a rebate provided under this section shall be—

(1) \$3,000 for a 20-percent reduction in whole home energy consumption; and

(2) an additional \$1,000 for each additional 5-percent reduction up to the lower of—

(A) \$8,000; or

(B) 50 percent of the total retrofit cost.

(e) VERIFICATION AND CORRECTION OF WORK.—

(1) REIMBURSEMENT.—On submission of a claim by a rebate aggregator to the Federal Rebate Processing System, the Secretary shall provide reimbursement to the rebate aggregator for energy-efficiency measures installed in a home, subject to paragraphs (2) and (3).

(2) VERIFICATION.—

(A) IN GENERAL.—Subject to subparagraph (B), all work conducted in a home as part of a whole-home retrofit by an accredited contractor under this section shall be subject to random field verification by an independent quality assurance provider at a rate of—

(i) 15 percent; or

(ii) in the case of work performed by an accredited contractor using a certified workforce, 10 percent.

(B) VERIFICATION NOT REQUIRED.—A home shall not be subject to field verification under subparagraph (A) if—

(i) a post-retrofit home energy rating is conducted by an entity that is an eligible certifier in accordance with—

(I) RESNET Publication No. 06–001 (or a successor publication approved by the Secretary);

(II) a State-certified equivalent rating network, as specified in IRS Notice 2008–35; or

(III) a HERS rating system required by the law of the State in which the home is located;

(ii) the eligible certifier is independent of the accredited contractor in accordance with RESNET Publication No. 06–001 (or a successor publication approved by the Secretary); and

(iii) the rating includes field verification of all measures for which rebates are being provided.

(C) HOMEOWNER COMPLAINT.—A homeowner may make a complaint under the quality assurance program that compliance with the quality assurance requirements of this title has not been achieved. The quality assurance program shall provide that, upon receiving such a complaint, an independent quality assurance provider shall conduct field verification on the retrofit work performed by the contractor. Verifications under this subparagraph shall be in addition to those conducted under subparagraph (A), and shall be corrected in accordance with paragraph (3).

(D) ACCESS TO HOME.—In order to be eligible for a discount from a contractor or vendor for which a rebate is provided under this section, a homeowner shall agree to permit such access to the home, upon reasonable notice and at a mutually convenient time, as is necessary to verify and correct retrofit work.

(3) CORRECTION.—Rebates under this section shall be made subject to the following conditions:

(A) The installed measures will comply with manufacturer and applicable code standards and the specifications and quality standards under this section if a field verification by an independent quality assurance provider finds that corrective work is needed. Such compliance shall be achieved by the installing accredited contractor not later than 14 days after the date of notification of a defect pursuant to a warranty, provided at no additional cost to the homeowner.

(B) A subsequent quality assurance visit shall be conducted to evaluate the remedy not later than 7 days after notification that the defect has been corrected.

(C) The quality assurance provider shall notify the contractor of the disposition of such visit not later than 7 days after the date of the visit.

(f) REVIEW.—

(1) IN GENERAL.—The Secretary shall determine whether information submitted to the Federal Rebate Processing System with respect to a rebate was complete, and on the basis of that information and other information available to the Secretary, shall determine whether the requirements of this section were met in all respects.

(2) INCORRECT PAYMENT.—On a determination of the Secretary under paragraph (1) that a payment was made incorrectly to a party, or that sufficient information was not submitted to the Federal Rebate Processing System to enable such determination, the Secretary—

(A) may—

(i) recoup the amount of the incorrect payment; or

(ii) withhold the amount of the incorrect payment from a payment made to the party pursuant to a subsequent request; and

(B) shall, to the extent the Secretary determines the benefit of the rebate was not passed through to the homeowner through a discount on the price of the retrofit work, order the contractor or vendor to pay the amount of rebate benefit not previously passed through to the homeowner.

SEC. 105. QUALITY ASSURANCE.

(a) QUALITY ASSURANCE FRAMEWORK.—

(1) IN GENERAL.—States that elect to carry out a quality assurance program pursuant to subsection (b) shall plan, develop, and implement a quality assurance framework. The Secretary shall promptly solicit the submission of model State quality assurance framework plans consistent with the requirements of this section and, not later than 60 days after the date of enactment of this Act, shall approve one or more such model plans that incorporate nationally con-

sistent high standards for optional use by States. Not later than 180 days after the date of enactment of this Act, each State electing to develop a quality assurance framework shall submit its plan to the Secretary, who shall then approve or reject such plan within 30 days, providing a detailed statement of deficiencies if the plan is rejected. If a State's plan is rejected, that State may resubmit its plan within 30 days.

(2) IMPLEMENTATION.—A State shall—

(A) develop a quality assurance framework in consultation with industry stakeholders, including representatives of efficiency program managers, contractors, community and workforce organizations, and environmental, energy efficiency, and labor organizations; and

(B) implement the quality assurance framework not later than one year after the date of enactment of this Act.

(3) COMPONENTS.—The quality assurance framework established under this subsection shall include—

(A) minimum standards for accredited contractors, including—

(i) compliance with applicable Federal, State, and local laws;

(ii) use of a certified workforce;

(iii) maintenance of records needed to verify compliance; and

(iv) use of independent contractors only when appropriately classified as such pursuant to Revenue ruling 87-41 and section 530(d) of the Revenue Act of 1978 and relevant State law;

(B) maintenance of a list of accredited contractors;

(C) requirements for maintenance and delivery to the Federal Rebate Processing System of information needed to verify compliance and ensure appropriate compensation for quality assurance providers;

(D) targets and realistic plans for—

(i) the recruitment of minority and women-owned small business enterprises;

(ii) the employment of graduates of training programs that primarily serve targeted workers;

(iii) the employment of targeted workers; and

(iv) the availability of financial assistance under the Home Star Loan Program to—

(I) public use microdata areas that have a poverty rate of 12 percent or more; and

(II) homeowners served by units of local government in jurisdictions that have an unemployment rate that is 2 percent higher than the national unemployment rate;

(E) a plan to link workforce training for energy efficiency retrofits with training for the broader range of skills and occupations in construction or emerging clean energy industries;

(F) quarterly reports to the Secretary on the progress of implementation of the quality assurance framework and its success in meeting its targets and plans; and

(G) maintenance of a list of qualified quality assurance providers and minimum standards for such quality assurance providers.

(4) NONCOMPLIANCE.—If the Secretary determines that a State that has elected to implement a quality assurance program, but has failed to plan, develop, or implement a quality assurance framework in accordance with this section, the Secretary shall suspend further grants for State administration pursuant to section 112(b)(1).

(b) QUALITY ASSURANCE PROGRAMS.—

(1) IN GENERAL.—A State may carry out a quality assurance program—

(A) as part of a State energy conservation plan established under part D of title III of the Energy Policy and Conservation Act (42 U.S.C. 6321 et seq.);

(B) to be managed by the office or the designee of the office—

(i) that is responsible for the development of the plan under section 362 of that Act (42 U.S.C. 6322); and

(ii) to the maximum extent practicable, that is conducting an existing energy efficiency program; and

(C) in the case of a grant made to an Indian tribe, to be managed by an entity designated by the Indian tribe to carry out a quality assurance program or a national quality assurance program manager.

(2) NONCOMPLIANCE.—If the Secretary determines that a State has not provided or cannot provide adequate oversight over a quality assurance program to ensure compliance with this title, the Secretary may—

(A) withhold further quality assurance funds from the State; and

(B) require that quality assurance providers operating in the State be overseen by a national quality assurance program manager selected by the Secretary.

(3) IMPLEMENTATION.—A State that receives a grant under this title may implement a quality assurance program through the State or an independent quality assurance provider designated by the State, including—

- (A) an energy service company;
- (B) an electric utility;
- (C) a natural gas utility;
- (D) an independent administrator designated by the State; or
- (E) a unit of local government.

SEC. 106. REPORTS.

(a) IN GENERAL.—The Secretary shall submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Energy and Commerce of the House of Representatives a report on this title—

- (1) not later than 1 year after the date of enactment of this Act; and
- (2) not later than the earlier of—
 - (A) 2 years after the date of enactment of this Act; or
 - (B) December 31, 2012.

(b) CONTENTS.—The report shall include a description of—

- (1) the energy savings produced as a result of this title;
- (2) the direct and indirect employment created as a result of the programs supported under this title;
- (3) the specific entities implementing the energy efficiency programs;
- (4) the beneficiaries who received the efficiency improvements;
- (5) the manner in which funds provided under this title were used;
- (6) the sources (such as mortgage lenders, utility companies, and local governments) and types of financing used by the beneficiaries to finance the retrofit expenses that were not covered by rebates provided under this title; and
- (7) the results of verification requirements; and
- (8) any other information the Secretary considers appropriate.

(c) REQUIRED INFORMATION.—

(1) REQUIREMENT.—Rebate aggregators and States participating in the Home Star Retrofit Rebate Program shall provide to the Secretary such information as the Secretary requires to prepare the report required under this section.

(2) NONCOMPLIANCE.—If the Secretary determines that a rebate aggregator or State has not provided the information required under paragraph (1), the Secretary shall provide to the rebate aggregator or State a period of at least 90 days to provide the necessary information, subject to withholding of funds or reduction of future grant amounts.

SEC. 107. TREATMENT OF REBATES.

(a) IN GENERAL.—For purposes of the Internal Revenue Code of 1986, rebates received under this title—

- (1) shall not be considered taxable income to a homeowner; and
- (2) shall supplant any credit allowed under section 25C or 25D of that Code for eligible work performed in the home of the homeowner.

(b) NOTICE.—A participating contractor shall provide notice to a homeowner of the provisions of subsection (a) before eligible work is performed in the home of the homeowner.

SEC. 108. HEATING AND COOLING EFFICIENCY STUDY.

(a) IN GENERAL.—The Secretary shall submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Energy and Commerce of the House of Representatives a study not later than 1 year after the date of enactment of this Act.

(b) CONTENTS.—The study shall include a description of—

- (1) the efficiency through the life-cycle of air conditioning and heat pump products eligible under section 103; and
- (2) a comparison of the efficiency through the life-cycle of air conditioning and heat pump products eligible under section 103 to the efficiency through the life-cycle of air conditioning and heat pump products not eligible under section 103.

SEC. 109. PUBLIC INFORMATION CAMPAIGN.

Not later than 60 days after the date of enactment of this Act, the Administrator, in consultation with the States and the Secretary, shall develop and implement a public education campaign that describes—

- (1) the benefits of home energy retrofits; and

(2) the availability of rebates for the installation of qualifying energy savings measures under the Silver Star Home Energy Retrofit Program and for whole home energy savings under the Gold Star Home Energy Retrofit Program.

SEC. 110. PENALTIES.

(a) IN GENERAL.—The Secretary may—

(1) assess and compromise a civil penalty against a person who violates this title (or any regulation issued under this title); and

(2) require from any entity the records and inspections necessary to enforce this title.

(b) CIVIL PENALTY.—A civil penalty assessed under subsection (a) shall be in an amount not greater than the higher of—

- (1) \$15,000 for each violation; or
- (2) 3 times the value of any associated rebate under this title.

SEC. 111. 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 under the Silver Star Home Energy Retrofit Program or whole home energy savings under the Gold Star Home Energy Retrofit Program.

(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 (e)(1).

(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.

(b) ESTABLISHMENT.—The Secretary shall establish a Home Star Energy Efficiency Loan Program under which the Secretary shall make funds available to States to support financial assistance provided by qualified financing entities for the installation of qualifying energy savings measures under the Silver Star Home Energy Retrofit Program or whole home energy savings under the Gold Star Home Energy Retrofit Program.

(c) 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 minimum standards provided under sections 103 and 104;

(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.

(d) ALLOCATION.—In allocating 75 percent of the funds made available to States for each fiscal year under this section, the Secretary 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.). In allocating the remaining 25 percent of the funds made available to

States for each fiscal year under this section, the Secretary 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 (c)(4).

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

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

(2) 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 established under this title 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; and

(3) will provide, in a timely manner, all information regarding the administration of the Home Star Loan Program as the Secretary may require to permit the Secretary to meet the program evaluation requirements of subsection (h).

(f) 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 0 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 (excluding securitization instruments) necessary—
(A) to use available funds to obtain appropriate leverage through private investment; and

(B) to support widespread deployment of energy efficiency programs.

(g) USE OF REPAID FUNDS.—In the case of a revolving loan fund described in subsection (f)(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.

(h) PROGRAM EVALUATION.—Not later than 1 year after the date of enactment of this Act, the Secretary shall submit to Congress a program evaluation that describes—

(1) how many eligible participants have participated in the Home Star Loan Program;

(2) how many jobs have been created through the Home Star Loan Program, directly and indirectly;

(3) what steps could be taken to promote further deployment of energy efficiency retrofits;

(4) the quantity of verifiable energy savings, homeowner energy bill savings, and other benefits of the Home Star Loan Program; and

(5) the performance of the programs carried out by qualified financing entities under this section, including information on the rate of default and repayment.

SEC. 112. FUNDING.

(a) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—Subject to subsection (j), there are authorized to be appropriated to carry out this title \$6,000,000,000 for the period of fiscal years 2010 and 2011, to remain available until expended.

(2) MAINTENANCE OF FUNDING.—Funds provided under this section shall supplement and not supplant any prior or planned Federal and State funding provided to carry out energy efficiency programs. 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 title.

(b) GRANTS TO STATES.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, of the amount provided under subsection (a), not more than 9 percent is authorized

to be appropriated to the Secretary for providing grants to States, to be used for—

- (A) administrative costs of carrying out this title;
- (B) development and implementation of quality assurance frameworks;
- (C) oversight of quality assurance programs;
- (D) establishment and delivery of financing mechanisms, in accordance with paragraph (2); and
- (E) coordination with existing residential retrofit programs and infrastructure development to assist deployment of the Home Star Retrofit Rebate Program.

(2) FINANCING.—Of the amounts allocated to the States under paragraph (1), not less than 60 percent shall be used to carry out section 111.

(3) DISTRIBUTION TO STATES.—

(A) PROVISION OF FUNDS.—Not later than 30 days after the date of enactment of this Act, the Secretary shall provide to the State energy offices, or such other State entities as are designated by the Governor, of States that are carrying out responsibilities under section 105, 25 percent of the funds described in paragraph (1).

(B) ALLOCATION.—Funds described in subparagraph (A) shall be made available in accordance with the allocation formula for 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.).

(C) FUND ALLOCATION PROCESS.—The Secretary shall allocate the remaining 75 percent of the funds described in paragraph (1) in a manner that may vary from the formula described in subparagraph (B) as necessary to best support the objectives of achieving energy efficiency gains, employment of underemployed workers, and implementing quality assurance programs and frameworks in participating States.

(4) WITHHOLDING OF FUNDS.—To the extent that the Secretary assumes the responsibilities of a State under section 101(i), the Secretary shall withhold the portion of the funds otherwise transferrable to the State under this section that are attributable to those State responsibilities.

(5) INDIAN TRIBES.—

(A) IN GENERAL.—If an Indian tribe acts in place of a State for purposes of carrying out the responsibilities of the State under this title with respect to its tribal lands pursuant to section 101(h), the Secretary shall transfer to that Indian tribe, instead of the State, the proportionate share of funds otherwise transferrable to the State under this section.

(B) PROPORTIONATE SHARE.—For purposes of subparagraph (A), the proportionate share shall be calculated on the basis of the percentage of the population of the State that resides within the tribal lands.

(c) QUALITY ASSURANCE COSTS.—

(1) IN GENERAL.—Of the amount provided under subsection (a), not more than 5 percent are authorized to be appropriated to the Secretary to be used as provided in paragraph (2), in accordance with information provided by the State offices or entities described in subsection (b)(3)(B) with respect to services provided by quality assurance providers.

(2) DISTRIBUTION TO QUALITY ASSURANCE PROVIDERS OR REBATE AGGREGATORS.—The Secretary shall use funds provided under this subsection to compensate quality assurance providers and rebate aggregators for services provided under this title.

(3) COMPENSATION.—The amount of compensation provided under this subsection shall be—

(A)(i) in the case of the Silver Star Home Energy Retrofit Program—

(I) not more than \$25 to rebate aggregators per rebate review and processing under the program; and

(II) \$150 to quality assurance providers for each field inspection conducted under the program; and

(ii) in the case of the Gold Star Home Energy Retrofit Program—

(I) not more than \$35 to rebate aggregators for each rebate review and processing under the program; and

(II) \$300 to quality assurance providers for each field inspection conducted under the program; or

(B) such other amounts as the Secretary considers necessary to carry out the quality assurance provisions of this title to optimize the overall energy efficiency resulting from the Silver Star Home Energy Retrofit Program and the Gold Star Home Energy Retrofit Program.

(d) TRACKING OF REBATES AND EXPENDITURES.—Of the amount provided under subsection (a), not more than 2.5 percent are authorized to be appropriated to the

Secretary to be used for costs associated with tracking rebates and expenditures through the Federal Rebate Processing System under this title, technical assistance to States, and related administrative costs incurred by the Secretary.

(e) PUBLIC EDUCATION AND COORDINATION.—Of the amount provided under subsection (a), not more than 0.2 percent are authorized to be appropriated to the Administrator to be used for costs associated with public education and coordination with the Federal Energy Star program.

(f) SILVER STAR HOME ENERGY RETROFIT PROGRAM.—

(1) IN GENERAL.—Of the amount provided under subsection (a), after subtracting the amounts authorized in subsections (b), (d), and (e) of this section, two-thirds of the remainder are authorized to be appropriated to the Secretary to be used to provide rebates and other payments authorized under the Silver Star Home Energy Retrofit Program.

(2) PRODUCTS PURCHASED WITHOUT INSTALLATION SERVICES.—Of the amounts appropriated pursuant to this subsection for the Silver Star program, 7.5 percent shall be made available for rebates under section 103(f).

(g) GOLD STAR HOME ENERGY RETROFIT PROGRAM.—Of the amount provided under subsection (a), after subtracting the amounts authorized in subsections (b), (d), and (e) of this section, one-third of the remainder is authorized to be appropriated to the Secretary to be used to provide rebates and other payments authorized under the Gold Star Home Energy Retrofit Program.

(h) RETURN OF UNDISBURSED FUNDS.—

(1) SILVER STAR HOME ENERGY RETROFIT PROGRAM.—If the Secretary has not disbursed all the funds available for rebates under the Silver Star Home Energy Retrofit Program by the date that is 1 year after the date of enactment of this Act, any undisbursed funds shall be made available to the Gold Star Home Energy Retrofit Program.

(2) GOLD STAR HOME ENERGY RETROFIT PROGRAM.—If the Secretary has not disbursed all the funds available for rebates under the Gold Star Home Energy Retrofit Program by the date that is 2 years after the date of enactment of this Act, any undisbursed funds shall be returned to the Treasury.

(i) SUNSET.—With the exception of the provisions of section 102(c)(5), (6), and (7), sections 107, 110, and 111, this subsection, and the relevant definitions in section 2 to those provisions, this title shall cease to be effective after December 31, 2012. Nothing in this subsection shall prevent a State from continuing to implement a quality assurance framework established pursuant to section 105.

TITLE II—ENERGY EFFICIENT MANUFACTURED HOMES

SEC. 201. ENERGY EFFICIENT MANUFACTURED HOMES.

(a) DEFINITIONS.—In this section:

(1) MANUFACTURED HOME.—The term “manufactured home” has the meaning given such term in section 603 of the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. 5402).

(2) ENERGY STAR QUALIFIED MANUFACTURED HOME.—The term “Energy Star qualified manufactured home” means a manufactured home that has been designed, produced, and installed in accordance with Energy Star’s guidelines by an Energy Star certified plant.

(b) PURPOSE.—The purpose of this section is to assist low-income households residing in manufactured homes constructed prior to 1976 to save energy and energy expenditures by providing funding for the purchase of new Energy Star qualified manufactured homes.

(c) GRANTS TO STATE AGENCIES.—

(1) GRANTS.—The Secretary may make grants to State agencies responsible for developing State energy conservation plans under section 362 of the Energy Policy and Conservation Act (42 U.S.C. 6322) (or such other existing State agency that exercises similar functions as the Governor of a State may designate), to provide owners of manufactured homes constructed prior to 1976 funding to use to purchase new Energy Star qualified manufactured homes.

(2) ALLOCATION OF GRANTS.—Grants under paragraph (1) shall be distributed to State agencies in States on the basis of their proportionate share of all manufactured homes constructed prior to 1976 that are occupied as primary residences in the United States, based on the most recent and accurate data available.

(3) FUNDING.—

(A) PRIMARY RESIDENCE REQUIREMENT.—Funding described under paragraph (1) may only be made to an owner of a manufactured home constructed prior to 1976 that has been used by the owner as a primary residence on a year-round basis for at least the previous 12 months.

(B) DESTRUCTION AND REPLACEMENT.—Funding described under paragraph (1) may be provided only if the manufactured home constructed prior to 1976 will be—

- (i) destroyed (including appropriate recycling); and
- (ii) replaced, in an appropriate area, as determined by the applicable State agency, with an Energy Star qualified manufactured home.

(C) LIMITATION.—Funding described under paragraph (1) may not be provided to any owner of a manufactured home constructed prior to 1976 that was or is a member of a household for which any member of the household was provided funding pursuant to this section.

(D) ELIGIBLE HOUSEHOLDS.—To be eligible to receive funding described under paragraph (1), an owner of a manufactured home constructed prior to 1976 shall demonstrate to the applicable State agency that the total income of all members the owner's household does not exceed 80 percent of the area median income in the applicable area, as determined by the Secretary.

(E) LEASES.—To be eligible to receive funding described under paragraph (1), an owner of a manufactured home constructed prior to 1976 who intends to place the new Energy Star qualified manufactured home on property leased from another person shall hold a lease to such property of at least 3 years in duration.

(4) FUNDING AMOUNT.—Funding provided by State agencies under this subsection shall not exceed \$7,500 per manufactured home from any funds appropriated pursuant to this section.

(5) USE OF STATE FUNDS.—A State agency providing funding under this section may supplement the amount of such funding under paragraph (4) by any amount such agency approves if such additional amount is from State funds and other sources, including private donations and grants or loans from charitable foundations.

(6) SIMILAR PROGRAMS.—

(A) STATE PROGRAMS.—A State agency conducting a program that has the purpose of replacing manufactured homes constructed prior to 1976 with Energy Star qualified manufactured homes may use funds provided under this section to support such a program, provided such funding does not exceed the funding limitation amount under paragraph (4).

(B) FEDERAL PROGRAMS.—The Secretary shall seek to achieve the purpose of this section through similar Federal programs including—

- (i) the Weatherization Assistance Program under part A of title IV of the Energy Conservation and Production Act (42 U.S.C. 6861 et seq.); and
- (ii) the program under part D of title III of the Energy Policy and Conservation Act (42 U.S.C. 6321 et seq.).

(7) ADMINISTRATION.—

(A) CONTROLS AND PROCEDURES.—Each State agency receiving funds under this section shall establish fiscal controls and accounting procedures sufficient, as determined by the Secretary, to ensure proper accounting for disbursements made from such funds and fund balances. Such procedures shall conform to generally accepted Government accounting principles.

(B) COORDINATION WITH OTHER STATE AGENCIES.—A State agency receiving funds under this section may coordinate its efforts, and share funds for administration, with other State agencies or nonprofit organizations involved in low-income housing programs.

(C) ADMINISTRATIVE EXPENSES.—A State agency receiving funds under this section may expend not more than 10 percent of such funds for administrative expenses.

(d) DECOMMISSIONING.—A person receiving funding under subsection (c) may also be provided not to exceed \$2,500 for the decommissioning of the manufactured home being replaced.

(e) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated to the Secretary to carry out this section \$200,000,000 for fiscal year 2010 and \$400,000,000 for fiscal year 2011, to remain available until expended.

(2) ADMINISTRATIVE EXPENSES.—Of the amounts available each fiscal year to carry out this section, the Secretary may expend not more than 5 percent to pay administrative expenses.

PURPOSE AND SUMMARY

H.R. 5019, the “Home Start Energy Retrofit Act of 2010”, was introduced by Rep. Peter Welch on April 14, 2010. H.R. 5019 is intended to improve the energy efficiency of American homes, to increase employment in the home construction and renovation industries, to promote domestic manufacture of energy efficient products and materials, to foster private enterprise in energy efficiency retrofit services and quality assurance, and to assist homeowners requiring assistance with energy efficiency financing.

BACKGROUND AND NEED FOR LEGISLATION

The Home Star Energy Retrofit Act of 2010 creates a multipart program to reduce energy consumption in American homes, increase employment in the home construction and services sector, and stimulate demand for U.S.-made products and services that improve residential energy efficiency. Supported by a broad coalition of homebuilders, manufacturers, energy efficiency specialists and contractors, community and environmental organizations, and others, the Home Star legislative concept combines the long-term merits of home energy efficiency retrofit investments with the short-term need to stimulate job creation in some of the economic sectors hardest hit by the current recession. President Obama has identified Home Star as a key element of his economic recovery and green jobs agendas.

Almost all of the 130 million homes in the United States can be retrofitted with energy efficient equipment and materials to achieve energy savings. Half of the single-family homes in the United States were constructed before there were modern building codes,¹ and the most recent model codes for energy efficient construction would require significant improvements even as compared to homes built during the building boom of the early years of this century. American homes account for about 33% of the nation’s total electricity demand and approximately 22% of all energy use in the United States, contributing 21% of the country’s greenhouse gas emissions.² According to testimony received by the Subcommittee on Energy and Environment from Assistant Secretary of Energy Cathy Zoi, existing technologies and practices can reduce energy use by up to 40% per home and reduce associated greenhouse gas emissions by up to 160 million metric tons by 2020.³

The recession has had a significant impact on the home construction and services industry, which is currently experiencing unemployment rates of 27%.⁴ It has also affected homeowners, who have been reluctant or unable to make the up-front capital investments required to retrofit their homes.

Home energy retrofit work can provide significant employment opportunities for capable workers. Testimony before the Sub-

¹ Testimony of Gov. John Engler, President and Chief Executive Officer of the National Association of Manufacturers, before the Subcommittee on Energy and Environment, Committee on Energy and Commerce (Mar. 18, 2010) (citing Joint Center for House Studies of Harvard University, *The Remodeling Market in Transition*).

² Testimony of Cathy Zoi, Assistant Secretary for Energy Efficiency and Renewable Energy, U.S. Department of Energy, before the Subcommittee on Energy and Environment, Committee on Energy and Commerce (Mar. 18, 2010).

³ *Id.*

⁴ *Id.* (quoting U.S. Bureau of Labor Statistics, *Industries at a Glance: Construction: NAICS23* for March 5, 2010).

committee from Larry Lasseter, the President of Wellhome, on behalf of the Home Star Coalition, indicated that 2.1 million construction jobs have been lost since 2006, and an additional 186,000 jobs have been lost in construction-related retail sales.⁵ The companies that produce, install, and maintain heating, ventilation, and air conditioning equipment have 2 million workers, many of whom are underemployed if not unemployed. Thirty percent of insulation installers are out of work.⁶

Manufacturing plants that produce construction-related products are operating at 50% of capacity. Testimony before the Subcommittee from Michael Thaman, Chairman and Chief Executive Officer of Owens Corning, indicated that his company's 55 American insulation plants were operating at half of their peak capacity and employing 25% fewer workers than in 2006.⁷ Small companies manage the largest part of home-energy retrofit work, including about 7,000 American companies that make and install windows, and 22,000 companies that install insulation.⁸

The Home Star program is designed to facilitate homeowner investment and prompt a surge in interest in home retrofitting and its benefits, with a goal of creating longer-term awareness of the benefits of energy efficiency retrofits that can outlive the two-year program. In addition, Home Star would promote increases in employment in the home retrofitting industry and in the manufacture of energy efficient products. It is estimated that more than 92% of the energy efficient products and materials for which the Home Star program will stimulate sales are manufactured in the United States.⁹

There are two primary components to the Home Star program. First, there is the two-year Home Star Retrofit rebate program which is the primary focus of the legislation. There is also the Home Star energy efficiency loan program which stands up a financing mechanism to encourage energy efficiency home retrofits after the completion of the rebate program.

Together, the Home Star program is projected to help more than 3 million American families to complete retrofit projects, with projected energy savings over 10 years in excess of \$9 billion.¹⁰

The Home Star retrofit rebate program provides for two tracks for home retrofit projects: the Silver Star program and the Gold Star program. Home retrofit projects have traditionally been hindered by consumer uncertainty about what measures are cost effective and certain to produce savings when installed. The Silver Star program addresses this problem by describing a menu of specific energy-saving technologies that are known to be widely available on the national market and highly cost-effective when installed as prescribed by their manufacturers. Under the bill, specific rebates are available for the installation of such measures, reflecting 50%

⁵*Id.*

⁶*Id.*

⁷ Testimony of Michael Thaman, Chairman and Chief Executive Officer of Owens Corning, before the Subcommittee on Energy and Environment, Committee on Energy and Commerce (Mar. 18, 2010).

⁸ Testimony of Larry Lasseter, President of Wellhome, on behalf of the Home Star Coalition, before the Subcommittee on Energy and Environment, Committee on Energy and Commerce (Mar. 18, 2010).

⁹*Id.*

¹⁰ Testimony of Larry Lasseter, *supra* note 8.

of their cost to the homeowner, up to a maximum of \$3,000, for a total retrofit representing an investment of \$6,000 or more.

Another impediment to home retrofitting has been the lack of public awareness of the benefits of whole-house energy analysis techniques. This approach to retrofitting involves determining the most cost-effective set of combined measures to improve a building's overall efficiency. The Gold Star program promotes the use of this approach by offering rebates for whole-home retrofit projects that use whole-house analysis tools designated by the Secretary to achieve an energy efficiency improvement of 20% or more, with a \$3,000 initial rebate for combined measures that reach a 20% overall level of improvement, and an additional \$1,000 rebate available for each additional 5% overall improvement, to a maximum of \$8,000. A rebate under the Gold Star program cannot represent more than 50% of the total cost of the retrofit project.

The Home Star retrofit rebate program reflects that policy that home energy efficiency retrofit practice should evolve toward the whole-house analysis model as opposed to the less effective measure-by-measure approach. Rebate levels available for the Gold Star program are higher than the Silver Star program. Additionally, the Silver Star program expires one year after enactment, while the Gold Star program continues for the second year. Two-thirds of the intended federal funding, however, is directed for the Silver Star rebates in the first year, with the expectation that consumers will be quick to take advantage of such savings on such items.

The Home Star bill includes a number of provisions designed to address the administrative challenge of processing rebates for thousands of contractors performing retrofits in millions of homes. Home Star will operate through a central data base and rebate processing center to which all rebate claims will be submitted. A percentage of these claims will be selected for quality assurance. In addition, the bill provides for tight but realistic timeframes for processing rebates applications and distributing federal resources to qualified contractors, with the goal of making contractors whole for the discounts they must offer within 30 days of rebate applications.

The legislation also includes a number of provisions designed to ensure quality and cost effectiveness in the Home Star program. The bill includes incentives for contractors to become accredited by the Building Performance Institute or other programs recognized by the Secretary of Energy in order to participate in Gold Star whole-home retrofit projects. The bill also provides incentives for encouraging contractors to employ workers trained and certified to perform retrofit work and installation. In addition, because of the significant unemployment and need for marketable skills in relatively low-income areas, the legislation encourages training and hiring efforts in such areas.

The bill offers to states funding to create quality assurance programs to assign and supervise spot checks confirming that appropriate products are used in retrofits designed for optimum savings of energy. Under the bill, the Secretary of Energy will pay quality assurance providers to inspect a percentage of finished projects and confirm that Silver Star and Gold Star rebates have been paid appropriately. Those states that elect to create quality assurance programs to support Home Star will also develop quality assurance

frameworks to recognize the accredited contractors that are using certified workforces with appropriate training and proven skills.

The legislation also responds to the need for flexible financing support for home energy retrofit activities at a time when consumer credit terms are very tight and banks are constrained in consumer lending. The Home Star energy efficiency loan program provides (1) seed funding to states that they can use to provide loans at lower interest rates; (2) revolving-fund loans; and (3) loans that are tied to the property through tax payment or utility-bill recovery such that any homeowner can pass the obligation along with the property to a new owner.

LEGISLATIVE HISTORY

H.R. 5019 was introduced on April 14, 2010, by Rep. Welch, along with Reps. Henry A. Waxman (D-CA), Edward J. Markey (D-MA), Dennis A. Cardozo (D-CA), and Vernon J. Ehlers (R-MI). Prior to the bill's introduction, on March 18, 2010, the Subcommittee on Energy and Environment of the Committee held a hearing on proposed legislation to provide for the establishment of a Home Star Retrofit Rebate program. On March 24, 2010, the Subcommittee considered in markup a Committee print of the proposed legislation and approved an amended version for full Committee. The text of the bill as introduced on April 14, 2010, was identical to the text of the Committee Print approved by the Subcommittee on March 24, 2010.

COMMITTEE CONSIDERATION

The Subcommittee on Energy and Environment met in open markup session on March 18, 2010, to consider a Committee Print dated March 14, 2010, on H.R. ____, a bill to provide for the establishment of a Home Star Retrofit Rebate Program, and for other purposes. Subsequently, the Subcommittee approved the text of the Committee Print, amended, to be forwarded to the full Committee. H.R. 5019 was introduced on April 14, 2010, with the identical language of the Committee Print as approved by the Subcommittee, and was referred to the Committee on Energy and Commerce.

The full Committee met in open markup session on April 15, 2010, to consider H.R. 5019. A manager's amendment by Mr. Waxman was adopted, along with four other amendments. Subsequently, the Committee ordered H.R. 5019 favorably reported to the House, amended, by a roll call vote of 30 yeas and 17 nays.

COMMITTEE VOTES

Clause 3(b) of rule XIII of the Rules of the House of Representatives requires the Committee to list the record votes on the motion to report legislation and amendments thereto. The Committee agreed to a motion by Mr. Waxman to order H.R. 5019 favorably reported to the House, amended, by a record vote of 30 yeas and 17 nays. The following is the recorded votes taken during Committee consideration, including the names of those Members voting for and against:

**COMMITTEE ON ENERGY AND COMMERCE – 111TH CONGRESS
ROLL CALL VOTE # 149**

BILL: H.R. 5019, the "Home Star Energy Retrofit Act of 2010".

MOTION: An amendment to the Waxman amendment in the nature of a substitute offered by Mr. Barton, # 1C, to change in section 13 the amount authorized to be appropriated from \$6 billion to \$3 billion, and to return any amount unobligated at the end of fiscal year 2011 to the Treasury to be applied to reducing the national debt.

DISPOSITION: NOT AGREED TO by a roll call vote of 17 yeas to 31 nays.

REPRESENTATIVE	YEAS	NAYS	PRESENT	REPRESENTATIVE	YEAS	NAYS	PRESENT
Mr. Waxman		X		Mr. Barton	X		
Mr. Dingell				Mr. Hall	X		
Mr. Markey		X		Mr. Upton	X		
Mr. Boucher		X		Mr. Stearns	X		
Mr. Pallone		X		Mr. Whitfield	X		
Mr. Gordon		X		Mr. Shimkus	X		
Mr. Rush		X		Mr. Shadegg	X		
Ms. Eshoo		X		Mr. Blunt			
Mr. Stupak		X		Mr. Buyer	X		
Mr. Engel				Mr. Radanovich			
Mr. Green		X		Mr. Pitts	X		
Ms. DeGette		X		Ms. Bono Mack			
Mrs. Capps		X		Mr. Terry	X		
Mr. Doyle				Mr. Rogers			
Ms. Harman		X		Mrs. Myrick			
Ms. Schakowsky				Mr. Sullivan			
Mr. Gonzalez				Mr. Murphy of PA	X		
Mr. Inslee		X		Mr. Burgess	X		
Ms. Baldwin		X		Ms. Blackburn	X		
Mr. Ross		X		Mr. Gingrey	X		
Mr. Weiner		X		Mr. Scalise	X		
Mr. Matheson		X		Mr. Griffith	X		
Mr. Butterfield		X		Mr. Latta	X		
Mr. Melancon		X					
Mr. Barrow		X					
Mr. Hill		X					
Ms. Matsui		X					
Mrs. Christensen		X					
Ms. Castor		X					
Mr. Sarbanes		X					
Mr. Murphy of CT		X					
Mr. Space		X					
Mr. McNerney		X					
Ms. Sutton		X					
Mr. Braley		X					
Mr. Welch		X					

**COMMITTEE ON ENERGY AND COMMERCE – 111TH CONGRESS
ROLL CALL VOTE # 150**

BILL: H.R. 5019, the “Home Star Energy Retrofit Act of 2010”.

MOTION: A motion by Mr. Waxman to order H.R. 5019 favorably reported to the House, amended.
(Final Passage)

DISPOSITION: AGREED TO by a roll call vote of 30 yeas to 17 nays.

REPRESENTATIVE	YEAS	NAYS	PRESENT	REPRESENTATIVE	YEAS	NAYS	PRESENT
Mr. Waxman	X			Mr. Barton		X	
Mr. Dingell	X			Mr. Hall		X	
Mr. Markey	X			Mr. Upton			
Mr. Boucher	X			Mr. Stearns		X	
Mr. Pallone	X			Mr. Whitfield	X		
Mr. Gordon				Mr. Shimkus		X	
Mr. Rush	X			Mr. Shadegg		X	
Ms. Eshoo	X			Mr. Blunt			
Mr. Stupak	X			Mr. Buyer		X	
Mr. Engel				Mr. Radanovich		X	
Mr. Green				Mr. Pitts		X	
Ms. DeGette	X			Ms. Bono Mack		X	
Mrs. Capps	X			Mr. Terry		X	
Mr. Doyle	X			Mr. Rogers			
Ms. Harman	X			Mrs. Myrick		X	
Ms. Schakowsky				Mr. Sullivan			
Mr. Gonzalez				Mr. Murphy of PA	X		
Mr. Inslee	X			Mr. Burgess		X	
Ms. Baldwin	X			Ms. Blackburn		X	
Mr. Ross	X			Mr. Gingrey		X	
Mr. Weiner	X			Mr. Scalise		X	
Mr. Matheson	X			Mr. Griffith		X	
Mr. Butterfield	X			Mr. Latta		X	
Mr. Melancon	X						
Mr. Barrow	X						
Mr. Hill							
Ms. Matsui	X						
Mrs. Christensen	X						
Ms. Castor							
Mr. Sarbanes	X						
Mr. Murphy of CT	X						
Mr. Space	X						
Mr. McNerney	X						
Ms. Sutton	X						
Mr. Braley							
Mr. Welch	X						

COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

In compliance with clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the findings and recommendations of the Committee are reflected in the descriptive portions of this report.

NEW BUDGET AUTHORITY, ENTITLEMENT AUTHORITY, AND TAX EXPENDITURES

Pursuant to clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee finds that H.R. 5019 would result in no new budget authority, entitlement authority, or tax expenditures or revenues.

STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

In accordance with clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee's performance goals and objectives are reflected in the descriptive portions of this report.

CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to clause 3(d)(1) of rule XIII of the Rules of the House of Representatives, the Committee finds that the constitutional authority for H.R. 5019 is provided in Article I, section 8, clause 3, which grants Congress the power to regulate commerce with foreign nations, among the several states, and with the Indian Tribes, in the provisions of Article I, section 8, clause 1, that relate to expending funds to provide for the general welfare of the United States, and in the provisions of Article I, section 8, clause 18, which grants Congress the power to make all laws necessary and proper to carry into execution the powers enumerated in section 8 and all other powers vested by the Constitution in the government of the United States.

EARMARKS AND TAX AND TARIFF BENEFITS

H.R. 5019 does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9 of rule XXI of the Rules of the House of Representatives.

ADVISORY COMMITTEE STATEMENT

No advisory committees were created by H.R. 5019 within the meaning of section 5 U.S.C. App., 5(b) of the Federal Advisory Committee Act.

APPLICABILITY OF LAW TO THE LEGISLATIVE BRANCH

The Committee finds that H.R. 5019 does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act of 1985.

FEDERAL MANDATES STATEMENT

The Committee adopts as its own the estimates of federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandate Reform Act.

COMMITTEE COST ESTIMATE

Pursuant to clause 3(d) of rule XIII of the Rules of the House of Representatives, the Committee adopts as its own the cost estimate on H.R. 5019 prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act.

CONGRESSIONAL BUDGET OFFICE ESTIMATE

Pursuant to clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, the following is the cost estimate on H.R. 5019 provided by the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974:

APRIL 29, 2010.

Hon. HENRY A. WAXMAN,
Chairman, Committee on Energy and Commerce,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 5019, the Home Star Energy Retrofit Act of 2010.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Megan Carroll.

Sincerely,

DOUGLAS W. ELMENDORF.

Enclosure.

H.R. 5019—Home Star Energy Retrofit Act of 2010

Summary: H.R. 5019 would authorize appropriations totaling \$6.6 billion for programs to increase the energy efficiency of residential properties. Assuming appropriation of the authorized amounts, CBO estimates that implementing the bill would cost \$6.6 billion over the 2010–2015 period. Enacting the bill would not affect direct spending or revenues; therefore, pay-as-you-go procedures would not apply.

H.R. 5019 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA). Any costs to state, local, or tribal governments would result from complying with conditions of assistance.

Estimated cost to the Federal Government: The estimated budgetary impact of H.R. 5019 is shown in the following table. The costs of this legislation fall within budget on 270 (energy).

	By fiscal year in millions of dollars—						
	2010	2011	2012	2013	2014	2015	2010–2015
CHANGES IN SPENDING SUBJECT TO APPROPRIATION							
Authorization Level	6,200	400	0	0	0	0	6,600
Estimated Outlays	350	2,000	2,340	1,170	620	120	6,600

Basis of estimate: Title I of H.R. 5019 would authorize appropriations totaling \$6 billion over the 2010–2011 period for activities to increase the energy efficiency of residential properties. CBO estimates that the bulk of that amount—roughly \$5 billion—would be used to provide rebates to defray costs of retrofitting homes to be more energy efficient. The bill specifies certain energy-saving technologies that would qualify for rebates of up to \$8,000 per resi-

dence depending on the type of technology involved and the total project cost. (Under the bill, rebates would initially be paid to contractors who install qualified energy-efficiency measures; the bill would require those contractors to pass the rebate value on to the customer.) The remaining \$1 billion authorized under title I would be used to provide grants to state and local governments and other entities for activities to support the proposed rebate program. A portion of that amount would be used by grant recipients to provide loans to residential property owners to cover the costs of energy retrofits.

Title II of the bill would authorize the appropriation of \$200 million in 2010 and \$400 million in 2011 for grants to help states develop and implement plans to replace certain mobile homes with newer, more energy-efficient models. Under the bill, owners of such homes would receive financial assistance of up to \$10,000 to cover the cost of acquiring new mobile homes and decommissioning those being replaced.

In total, CBO estimates that fully funding H.R. 5019 would cost \$350 million in 2010 and \$6.6 billion over the 2010–2015 period, assuming appropriation of the authorized amounts. That estimate is based on historical spending patterns for similar activities, including rebate programs administered by the Department of Energy and the Environmental Protection Agency.

Pay-as-you-go considerations: None.

Intergovernmental and private-sector impact: H.R. 5019 contains no intergovernmental or private-sector mandates as defined in UMRA and would impose no costs on state, local, or tribal governments. The bill would authorize grants to states to provide loans to individuals for retrofitting housing to be more energy efficient and funding to owners of manufactured homes seeking to upgrade to a manufactured home that qualifies as an Energy Star home. Any costs to state, local, or tribal governments would result from complying with conditions of assistance.

Estimate prepared by: Federal Costs: Megan Carroll; Impact on State, Local, and Tribal Governments: Ryan Miller; Impact on the Private Sector: Amy Petz.

Estimate approved by: Theresa Gullo, Deputy Assistant Director for Budget Analysis.

SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

Section 1. Short title

This section designates the short title of the bill as the “Home Star Energy Retrofit Act of 2010”.

Section 2. Definitions

This section defines, among other terms: accredited contractor, certified workforce, federal rebate processing system, Gold Star Home Energy Retrofit Program, qualified contractor, quality assurance program, quality assurance provider, Silver Star Home Energy Retrofit Program, targeted worker, and rebate aggregator.

TITLE I—HOME STAR RETROFIT REBATE PROGRAM

Section 101. Home Star Retrofit Program

Within 30 days of enactment, the Department of Energy (DOE), the Environmental Protection Agency (EPA), and the Department of the Treasury shall create a processing center to receive claims from rebate aggregators, establish a website explaining what is eligible for a rebate and how to participate, and develop model forms and data protocols.

Qualified contractors must sign a participation agreement with a rebate aggregator affirming compliance with state licensing requirements, affirming the ability to provide warranties, and agreeing to pass the rebate value to the customer. DOE can set additional requirements.

DOE is to provide administrative and technical support to rebate aggregators and states. States can partner with utilities, energy service companies, and others to help market Home Star, assist with consumer financing, and implement installation and quality assurance for the Gold and Silver Star programs. States may elect to undertake quality assurance programs to ensure proper performance of Home Star retrofits, and will be entitled to funding for that purpose as well as to develop longer-term quality assurance frameworks.

The Secretary of Energy is authorized to use expedited procedures for hiring personnel and consultants, entering contracts, and adopting rulemaking authority to conduct the program. The Secretary may not use the expedited rulemaking authority under Home Star to develop a public labeling system or require public disclosure of the energy performance of a home assessed through Home Star retrofits.

Rebates cannot be given under both the Gold Star and Silver Star programs for the same home. States are encouraged to coordinate existing programs with Home Star and may use Home Star resources within such programs to the extent they are compatible with Home Star objectives.

Section 102. Rebate aggregators

The Secretary must identify one rebate aggregator in each state within 30 days of enactment, and develop a network of rebate aggregators sufficient to process all rebates in the requisite period of time. Rebate aggregators review rebate applications and contractor qualifications, bundle the qualifying rebate applications, and send them to the federal rebate processing system (FRPS), and reimburse the contractor/vendor within 30 days of receiving the rebate form from the contractor/vendor. They must also assign quality assurance providers to check randomly selected projects for completion and correctness.

A rebate aggregator must submit a rebate application to the FRPS within 10 days of receipt. Within the following 10 days, the FRPS shall provide funds to the rebate aggregator. Within 10 days of receiving funds, the rebate aggregator shall pay the rebate applicant.

A rebate aggregator can be a Home Performance with Energy Star Provider, another state residential energy efficiency retrofit program, a utility, local government, or a private entity that dem-

onstrates its financial and technical ability by demonstrating several listed capabilities.

Public utilities can serve as rebate aggregators and count the energy savings from their participation in Home Star toward state-level energy savings targets.

Section 103. Silver Star

During the first year from date of enactment, Silver Star rebates shall be awarded to contractors and vendors installing approved items from the list of specified energy efficiency measures meeting the Silver Star standards. The rebate reimburses contractors or vendors for providing a discount equal to the rebate's full value to homeowners.

Rebates apply to the cost of purchase, assembly and installation of insulation, windows, window film, sealants, doors, heating and cooling replacement systems, and water heaters that meet minimum energy efficiency requirements.

Rebate amounts: attic insulation, wall insulation and air sealing rebates are capped at \$1,500 per measure. A \$1,000 rebate is available for applicable windows and heating and cooling systems. Lower rebate amounts (\$50–\$500) are available for doors, storm windows, window film, and lower efficiency water heaters. The maximum total rebate amount pursuant to the Silver Star program is the lower of \$3,000 or 50% of the total cost of installed measures.

Fraud prevention: 20% of the retrofits in Silver Star shall be randomly subject to field inspections by independent quality assurance providers. If the qualified contractor uses a certified workforce, 10% of retrofits are subject to random verification. DOE can raise or lower the percentage of verified retrofits for an individual contractor based on past performance.

A "do-it-yourself" provision allows people to receive Silver Star rebates for the purchase of air sealing and certain attic, wall, and crawl space insulation products as long as the customer installs the items in his or her own home. The rebate amount is the lower of 50% of the purchase price of the qualified items or \$250, and is intended to be provided directly at the point of sale.

Section 104. Gold Star

Gold Star offers rebates for actions taken by accredited contractors to make energy retrofits that render an entire home at least 20% more energy efficient than it was before the retrofit was conducted. There are no product limitations in Gold Star. Homeowners cannot receive rebates under both Gold Star and Silver Star. For Gold Star, an energy audit or analysis of the home must be performed, using approved programs, before and after the energy efficiency retrofit.

Homeowner rebates are \$3,000 for a 20% reduction in whole home energy consumption and an additional \$1,000 for each additional 5% reduction up to the lower of \$8,000 or 50% of total retrofit cost.

Fraud prevention: 15% of the retrofits in Gold Star are subject to field inspections. If the accredited contractor uses a certified workforce the verification rate decreases to 10%. If the post-retrofit energy audit is completed in accordance with certain standards, no field inspection will be required.

Section 105. Quality assurance

States that participate in the quality assurance program must develop a quality assurance framework. This framework lists qualified and accredited contractors, contractor standards, and a rebate delivery and processing program. It also includes targets and plans to recruit minority businesses, women-owned businesses, and workforce training graduates.

States form quality assurance programs to oversee quality assurance providers conducting field inspections. The program can be run by the state or through another approved entity.

Section 106. Report

One year after enactment, DOE shall submit a report to Congress providing an update on the program and describing the energy savings and employment generated through Home Star.

Section 107. Rebates

Rebates are not taxable income to homeowners, as they are offered in the form of discounts, and substitute for any tax credit allowed under 25C of IRS Code for eligible work. Contractors shall provide notice of this provision to homeowners before eligible work is performed.

Section 108. Heating and cooling efficiency study

One year after the date of enactment, DOE shall submit a study describing the lifecycle efficiency of air conditioning and heat pump products.

Section 109. Public information campaign

Sixty days after enactment, DOE, states, and EPA must develop an education campaign that describes the benefits of Home Star retrofits and the availability of rebates under Gold Star and Silver Star programs.

Section 110. Penalties

DOE may assess civil penalties of an amount not greater than \$15,000 for each violation or 3 times the value of any associated rebate.

Section 111. Home Star Energy Efficiency Loan Program

States can establish or support loan programs for homeowners to carry out Silver or Gold Star projects. Seventy-five percent of the funds designated for states are allocated using the formula for State energy conservation plans under the Energy Policy and Conservation Act. The remaining 25% may be allocated based on a state's progress in meeting program objectives including providing loans to low-income areas.

The Home Star efficiency loan program must be conducted through a qualified financing entity that meets strict eligibility requirements and is designated by a state's governor. These requirements include making the program available to low-income communities.

States can use Home Star efficiency loan funds to reduce interest rates, enhance credit, and for revolving loan funds or other debt instruments to leverage private funds for efficiency programs. States

can also offer repayment of Home Star efficiency loans through repayment systems attached to utility bills, tax assessments, and municipal service charges.

Section 112. Funding

This section authorizes not more than \$6 billion for FY2010 and FY2011, to remain available until expended.

States receive 9% of the total appropriation as grants for quality assurance frameworks and programs, administrative costs, delivery of finance mechanisms, and coordination with existing programs. Not less than 60% of these funds can be used for the loan program.

DOE distributes 25% of state grants to State energy offices within 30 days to implement the Silver Star program. Allocation to states is based on the formula for State energy conservation plans under the Energy Policy and Conservation Act. The remaining 75% may be allocated to best support successful programs to increase energy efficiency, increase employment, and implement quality assurance programs and frameworks.

DOE may use a maximum of 5% of program funds to support quality assurance providers and rebate aggregators. Maximum payment amounts are established for processing of rebates and field inspections. DOE expenditures under Home Star to track rebates offer technical assistance and cover DOE's own administrative costs are limited to 2.5% of appropriated funds. Public education efforts through EPA are funded by an allocation of 0.2% of Home Star funds.

The Silver Star program is authorized to receive two-thirds of the funds not used for state grants or such administrative costs. Gold Star receives the remaining third. When the Silver Star program ends one year after enactment, any undisbursed funds go to the Gold Star program. Once the Gold Star program ends, any undisbursed funds are returned to the Treasury.

The Home Star program will sunset after December 31, 2012, with the exception of: rebate aggregator accounting and contractor qualification and performance records.

TITLE II—ENERGY EFFICIENT MANUFACTURED HOMES

Section 201. Energy efficient manufactured homes

Grants shall be given to states for a program that will offer a \$7,500 rebate for homeowners to replace manufactured homes built before 1976, which are primary residences, with Energy Star-rated manufactured homes. Homes that are being replaced under this program must be destroyed and appropriately recycled.

Eligible program participants must have a household income of no more than 80% of the area median income as determined by DOE.

Grants shall be provided on the basis of their proportionate share of all manufactured homes constructed before 1976 that are primary homes.

Funding for this title is authorized at \$200 million for FY2010 and \$400 million for FY2011. This funding is to be available until expended. No more than 5% of this funding, per year, shall be available to DOE for administrative expenses.

MINORITY VIEWS

We, the undersigned Members of the Committee on Energy and Commerce, oppose the passage of H.R. 5019 and submit the following comments to express our concerns with this legislation.

H.R. 5019, the Home Star Energy Retrofit Act of 2010, would create a Silver Star and a Gold Star Home Energy Retrofit Program, both of which would provide rebates to eligible contractors for energy efficiency upgrades of residential dwellings. The legislation also creates a do-it-yourself category of rebate within the Silver Star program. It also creates a Home Star Energy Efficiency Loan Program.

Legislation that promotes energy efficiency is strongly supported by Republican Members of the Committee; however, there are a number of significant issues with this legislation, including the total cost of the legislation, questions about the U.S. Department of Energy's (DOE's) ability to effectively implement this program, and the fact that this legislation picks technology winners and losers.

The legislation authorizes a \$6 billion appropriation for Title I, the Home Star Retrofit Rebate Program, and an additional \$600 million appropriation for Title II, the Energy Efficient Manufactured Homes section, which was added as an amendment offered by Rep. Hill at the April 15, 2010, Energy and Commerce Committee markup. At a time when there is a national deficit crisis, it is not appropriate to add \$6.6 billion in spending to the deficit, and therefore Rep. Latta offered an amendment that would have prevented enactment of H.R. 5019 if there was an impact on deficit neutrality. In exchange for Rep. Latta withdrawing his amendment, Chairman Waxman promised that a "payfor" would be identified before this legislation is brought to the House Floor. It is our sincere hope that this promise is kept.

There are also significant concerns regarding DOE's ability to implement this program under the tight deadlines required under this legislation. DOE's Inspector General recently issued a report concluding that, as of February 2010, of the \$4.7 billion DOE has awarded in grants to States under the American Recovery and Reinvestment Act of 2009 (the Recovery Act) weatherization program, only \$368 million had been used by States for weatherization purposes and only 30,297 units have actually been weatherized. Of the ten States receiving the most money under the \$5 billion allocated for the weatherization program under the Recovery Act, only two had weatherized more than 2% of the homes covered by the program; the eight other States weatherized fewer than 400 homes each. Because the \$4.7 billion weatherization program has been a complete failure from an implementation perspective, we have concerns that a \$6.6 billion Home Star Energy Retrofit Program could suffer similar implementation failures.

This legislation is not technology neutral; it picks winners and losers. It is not the role of the Federal Government to pick winners and losers in the private sector. The Silver Star Home Energy Retrofit Program lists 13 energy savings measures that qualify for rebates of varying dollar amounts. There are many energy efficient products that were left off of this list or that will not qualify because the technical requirements are too onerous. Republican Members did offer amendments that sought to expand the list of winners. During the March 24, 2010, Energy and Environment Subcommittee markup, Rep. Shadegg and Rep. Shimkus each offered amendments that were accepted, so that the list of qualifying measures was expanded to include electric tankless water heaters and geothermal heat pumps.

JOE BARTON, *Ranking Member,*
Committee on Energy and
Commerce.

FRED UPTON, *Ranking Member,*
Subcommittee on Energy and
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RALPH M. HALL.

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