

AMENDMENT NO. _____ Calendar No. _____

Purpose: To authorize the Secretary of Agriculture to make loans to certain entities that will use the funds to make loans to consumers to implement cost-effective energy efficiency measures to promote energy cost savings and rural development.

IN THE SENATE OF THE UNITED STATES—112th Cong., 2d Sess.

(no.) _____

To reauthorize agricultural programs through 2017, and for other purposes.

Referred to the Committee on _____ and ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT intended to be proposed by Mr. LUGAR

Viz:

- 1 At the appropriate place in title VI, insert the fol-
- 2 lowing:
- 3 **SEC. 6 ____ . RURAL ENERGY SAVINGS PROGRAM.**
- 4 Subtitle E of title VI of the Farm Security and Rural
- 5 Investment Act of 2002 (Public Law 107-171; 116 Stat.
- 6 424) is amended by adding at the end the following:
- 7 **"SEC. 6407. RURAL ENERGY SAVINGS PROGRAM.**
- 8 "(a) PURPOSE.—The purpose of this section is to cre-
- 9 ate jobs, promote rural development, and help rural fami-
- 10 lies and small businesses achieve cost savings by providing

1 loans to qualified consumers to implement durable cost-
2 effective energy efficiency measures.

3 “(b) DEFINITIONS.—In this section:

4 “(1) ELIGIBLE ENTITY.—The term ‘eligible en-
5 tity’ means—

6 “(A) any public power district, public util-
7 ity district, or similar entity, or any electric co-
8 operative described in section 501(c)(12) or
9 1381(a)(2) of the Internal Revenue Code of
10 1986, that borrowed and repaid, prepaid, or is
11 paying an electric loan made or guaranteed by
12 the Rural Utilities Service (or any predecessor
13 agency);

14 “(B) any entity primarily owned or con-
15 trolled by 1 or more entities described in sub-
16 paragraph (A); or

17 “(C) any other entity that is an eligible
18 borrower of the Rural Utility Service, as deter-
19 mined under section 1710.101 of title 7, Code
20 of Federal Regulations (or a successor regula-
21 tion).

22 “(2) ENERGY EFFICIENCY MEASURES.—The
23 term ‘energy efficiency measures’ means, for or at
24 property served by an eligible entity, structural im-

1 provements and investments in cost-effective, com-
2 mercial technologies to increase energy efficiency.

3 “(3) QUALIFIED CONSUMER.—The term ‘quali-
4 fied consumer’ means a consumer served by an eligi-
5 ble entity that has the ability to repay a loan made
6 under subsection (d), as determined by the eligible
7 entity.

8 “(4) SECRETARY.—The term ‘Secretary’ means
9 the Secretary of Agriculture, acting through the Ad-
10 ministrators of the Rural Utilities Service.

11 “(c) LOANS TO ELIGIBLE ENTITIES.—

12 “(1) IN GENERAL.—Subject to paragraph (2),
13 the Secretary shall make loans to eligible entities
14 that agree to use the loan funds to make loans to
15 qualified consumers for the purpose of implementing
16 energy efficiency measures.

17 “(2) REQUIREMENTS.—

18 “(A) IN GENERAL.—As a condition of re-
19 ceiving a loan under this subsection, an eligible
20 entity shall—

21 “(i) establish a list of energy effi-
22 ciency measures that is expected to de-
23 crease energy use or costs of qualified con-
24 sumers;

1 “(ii) prepare an implementation plan
2 for use of the loan funds, including use of
3 any interest to be received pursuant to
4 subsection (d)(1)(A);

5 “(iii) provide for appropriate measure-
6 ment and verification to ensure—

7 “(I) the effectiveness of the en-
8 ergy efficiency loans made by the eli-
9 gible entity; and

10 “(II) that there is no conflict of
11 interest in carrying out this section;
12 and

13 “(iv) demonstrate expertise in effec-
14 tive use of energy efficiency measures at
15 an appropriate scale.

16 “(B) REVISION OF LIST OF ENERGY EFFI-
17 CIENCY MEASURES.—Subject to the approval of
18 the Secretary, an eligible entity may update the
19 list required under subparagraph (A)(i) to ac-
20 count for newly available efficiency technologies.

21 “(C) EXISTING ENERGY EFFICIENCY PRO-
22 GRAMS.—An eligible entity that, at any time be-
23 fore the date that is 60 days after the date of
24 enactment of this section, has established an
25 energy efficiency program for qualified con-

1 sumers may use an existing list of energy effi-
2 ciency measures, implementation plan, or meas-
3 urement and verification system of that pro-
4 gram to satisfy the requirements of subpara-
5 graph (A) if the Secretary determines the list,
6 plan, or systems are consistent with the pur-
7 poses of this section.

8 “(3) NO INTEREST.—A loan under this sub-
9 section shall bear no interest.

10 “(4) REPAYMENT.—With respect to a loan
11 under paragraph (1)—

12 “(A) the term shall not exceed 20 years
13 from the date on which the loan is closed; and

14 “(B) except as provided in paragraph (6),
15 the repayment of each advance shall be amor-
16 tized for a period not to exceed 10 years.

17 “(5) AMOUNT OF ADVANCES.—Any advance of
18 loan funds to an eligible entity in any single year
19 shall not exceed 50 percent of the approved loan
20 amount.

21 “(6) SPECIAL ADVANCE FOR START-UP ACTIVI-
22 TIES.—

23 “(A) IN GENERAL.—In order to assist an
24 eligible entity in defraying the appropriate
25 start-up costs (as determined by the Secretary)

1 of establishing new programs or modifying ex-
2 isting programs to carry out subsection (d), the
3 Secretary shall allow an eligible entity to re-
4 quest a special advance.

5 “(B) AMOUNT.—No eligible entity may re-
6 ceive a special advance under this paragraph
7 for an amount that is greater than 4 percent of
8 the loan amount received by the eligible entity
9 under paragraph (1).

10 “(C) REPAYMENT.—Repayment of the spe-
11 cial advance—

12 “(i) shall be required during the 10-
13 year period beginning on the date on which
14 the special advance is made; and

15 “(ii) at the election of the eligible en-
16 tity, may be deferred to the end of the 10-
17 year period.

18 “(7) LIMITATION.—All special advances shall be
19 made under a loan described in paragraph (1) dur-
20 ing the first 10 years of the term of the loan.

21 “(d) LOANS TO QUALIFIED CONSUMERS.—

22 “(1) TERMS OF LOANS.—Loans made by an eli-
23 gible entity to qualified consumers using loan funds
24 provided by the Secretary under subsection (c)—

1 “(A) may bear interest, not to exceed 3
2 percent, to be used for purposes that include—

3 “(i) to establish a loan loss reserve;
4 and

5 “(ii) to offset personnel and program
6 costs of eligible entities to provide the
7 loans;

8 “(B) shall finance energy efficiency meas-
9 ures for the purpose of decreasing energy usage
10 or costs of the qualified consumer by an
11 amount that ensures, to the maximum extent
12 practicable, that a loan term of not more than
13 10 years will not pose an undue financial bur-
14 den on the qualified consumer, as determined
15 by the eligible entity;

16 “(C) shall not be used to fund purchases
17 of, or modifications to, personal property unless
18 the personal property is or becomes attached to
19 real property (including a manufactured home)
20 as a fixture;

21 “(D) shall be repaid through charges
22 added to the electric bill for the property for, or
23 at which, energy efficiency measures are or will
24 be implemented, on the condition that this re-
25 quirement does not prohibit—

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

3 “(ii) the use of any additional repay-
4 ment mechanisms that are—

5 “(I) demonstrated to have appro-
6 priate risk mitigation features, as de-
7 termined by the eligible entity; or

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

11 “(E) shall require an energy audit by an
12 eligible entity to determine the impact of pro-
13 posed energy efficiency measures on the energy
14 costs and consumption of the qualified con-
15 sumer.

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

19 “(e) CONTRACT FOR MEASUREMENT AND
20 VERIFICATION, TRAINING, AND TECHNICAL ASSIST-
21 ANCE.—

22 “(1) IN GENERAL.—Not later than 90 days
23 after the date of enactment of this section, the Sec-
24 retary—

1 “(A) shall establish a plan for measure-
2 ment and verification, training, and technical
3 assistance of the program; and

4 “(B) may enter into 1 or more contracts
5 with a qualified entity for the purposes of—

6 “(i) providing measurement and
7 verification activities; and

8 “(ii) developing a program to provide
9 technical assistance and training to the
10 employees of eligible entities to carry out
11 this section.

12 “(2) USE OF SUBCONTRACTORS AUTHOR-
13 ORIZED.—A qualified entity that enters into a contract
14 under paragraph (1) may use subcontractors to as-
15 sist the qualified entity in carrying out the contract.

16 “(f) FAST START DEMONSTRATION PROJECTS.—

17 “(1) IN GENERAL.—The Secretary shall offer to
18 enter into agreements with eligible entities (or
19 groups of eligible entities) that have energy effi-
20 ciency programs described in subsection (c)(2)(C) to
21 establish an energy efficiency loan demonstration
22 projects consistent with the purposes of this section.

23 “(2) EVALUATION CRITERIA.—In determining
24 which eligible entities to award loans under this sec-

1 tion, the Secretary shall take into consideration eligi-
2 ble entities that—

3 “(A) implement approaches to energy au-
4 dits and investments in energy efficiency meas-
5 ures that yield measurable and predictable sav-
6 ings;

7 “(B) use measurement and verification
8 processes to determine the effectiveness of en-
9 ergy efficiency loans made by eligible entities;

10 “(C) include training for employees of eli-
11 gible entities, including any contractors of such
12 entities, to implement or oversee the activities
13 described in subparagraphs (A) and (B);

14 “(D) provide for the participation of a ma-
15 jority of eligible entities in a State;

16 “(E) reduce the need for generating capac-
17 ity;

18 “(F) provide efficiency loans to—

19 “(i) in the case of a single eligible en-
20 tity, not fewer than 20,000 consumers; or

21 “(ii) in the case of a group of eligible
22 entities, not fewer than 80,000 consumers;

23 and

1 “(G) serve areas in which, as determined
2 by the Secretary, a large percentage of con-
3 sumers reside—

4 “(i) in manufactured homes; or

5 “(ii) in housing units that are more
6 than 50 years old.

7 “(3) DEADLINE FOR IMPLEMENTATION.—To
8 the maximum extent practicable, the Secretary shall
9 enter into agreements described in paragraph (1) by
10 not later than 90 days after the date of enactment
11 of this section.

12 “(4) EFFECT ON AVAILABILITY OF LOANS NA-
13 TIONALLY.—Nothing in this subsection shall delay
14 the availability of loans to eligible entities on a na-
15 tional basis beginning not later than 180 days after
16 the date of enactment of this section.

17 “(5) ADDITIONAL DEMONSTRATION PROJECT
18 AUTHORITY.—

19 “(A) IN GENERAL.—The Secretary may
20 conduct demonstration projects in addition to
21 the project required by paragraph (1).

22 “(B) INAPPLICABILITY OF CERTAIN CRI-
23 TERIA.—The additional demonstration projects
24 may be carried out without regard to subpara-
25 graphs (D), (F), or (G) of paragraph (2).

1 “(g) ADDITIONAL AUTHORITY.—The authority pro-
2 vided in this section is in addition to any other authority
3 of the Secretary to offer loans under any other law.

4 “(h) EFFECTIVE PERIOD.—Subject to the availability
5 of funds and except as otherwise provided in this section,
6 the loans and other expenditures required to be made
7 under this section shall be available until expended, with
8 the Secretary authorized to make new loans as loans are
9 repaid.

10 “(i) REGULATIONS.—

11 “(1) IN GENERAL.—Except as otherwise pro-
12 vided in this subsection, not later than 180 days
13 after the date of enactment of this section, the Sec-
14 retary shall promulgate such regulations as are nec-
15 essary to implement this section.

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

19 “(A) the Statement of Policy of the Sec-
20 retary of Agriculture effective July 24, 1971
21 (36 Fed. Reg. 13804), relating to notices of
22 proposed rulemaking and public participation in
23 rulemaking; and

1 “(B) chapter 35 of title 44, United States
2 Code (commonly known as the ‘Paperwork Re-
3 duction Act’).

4 “(3) CONGRESSIONAL REVIEW OF AGENCY
5 RULEMAKING.—In carrying out this section, the Sec-
6 retary shall use the authority provided under section
7 808 of title 5, United States Code.

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