

111TH CONGRESS  
2D SESSION

# S. 3102

To amend the miscellaneous rural development provisions of the Farm Security and Rural Investment Act of 2002 to authorize the Secretary of Agriculture to make loans to certain entities that will use the funds to make loans to consumers to implement energy efficiency measures involving structural improvements and investments in cost-effective, commercial off-the-shelf technologies to reduce home energy use.

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IN THE SENATE OF THE UNITED STATES

MARCH 10, 2010

Mr. MERKLEY (for himself, Mrs. SHAHEEN, Mr. JOHNSON, Mr. LUGAR, Mr. BENNET, and Mr. GRAHAM) introduced the following bill; which was read twice and referred to the Committee on Agriculture, Nutrition, and Forestry

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## A BILL

To amend the miscellaneous rural development provisions of the Farm Security and Rural Investment Act of 2002 to authorize the Secretary of Agriculture to make loans to certain entities that will use the funds to make loans to consumers to implement energy efficiency measures involving structural improvements and investments in cost-effective, commercial off-the-shelf technologies to reduce home energy use.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Rural Energy Savings  
3 Program Act”.

4 **SEC. 2. RURAL ENERGY SAVINGS PROGRAM.**

5 Title VI of the Farm Security and Rural Investment  
6 Act of 2002 (7 U.S.C. 7901 note et seq.) is amended by  
7 adding the following new section:

8 **“SEC. 6407. RURAL ENERGY SAVINGS PROGRAM.**

9 “(a) **PURPOSE.**—The purpose of this section is to cre-  
10 ate and save jobs by providing loans to qualified con-  
11 sumers that will use the loan proceeds to implement en-  
12 ergy efficiency measures to achieve significant reductions  
13 in energy costs, energy consumption, or carbon emissions.

14 “(b) **DEFINITIONS.**—In this section:

15 “(1) **ELIGIBLE ENTITY.**—The term ‘eligible en-  
16 tity’ means—

17 “(A) any public power district, public util-  
18 ity district, or similar entity, or any electric co-  
19 operative described in sections 501(c)(12) or  
20 1381(a)(2)(C) of the Internal Revenue Code of  
21 1986, that borrowed and repaid, prepaid, or is  
22 paying an electric loan made or guaranteed by  
23 the Rural Utilities Service (or any predecessor  
24 agency); or

1           “(B) any entity primarily owned or con-  
2           trolled by an entity or entities described in sub-  
3           paragraph (A).

4           “(2) ENERGY EFFICIENCY MEASURES.—The  
5           term ‘energy efficiency measures’ means, for or at  
6           property served by an eligible entity, structural im-  
7           provements and investments in cost-effective, com-  
8           mercial off-the-shelf technologies to reduce home en-  
9           ergy use.

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

15           “(4) QUALIFIED ENTITY.—The term ‘qualified  
16           entity’ means a non-governmental, not-for-profit or-  
17           ganization that the Secretary determines has signifi-  
18           cant experience, on a national basis, in providing eli-  
19           gible entities with—

20                   “(A) energy, environmental, energy effi-  
21                   ciency, and information research and tech-  
22                   nology;

23                   “(B) training, education, and consulting;

1           “(C) guidance in energy and operational  
2 issues and rural community and economic de-  
3 velopment;

4           “(D) advice in legal and regulatory mat-  
5 ters affecting electric service and the environ-  
6 ment; and

7           “(E) other relevant assistance.

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

11          “(c) LOANS AND GRANTS TO ELIGIBLE ENTITIES.—

12           “(1) LOANS AUTHORIZED.—Subject to para-  
13 graph (2), the Secretary shall make loans to eligible  
14 entities that agree to use the loan funds to make  
15 loans to qualified consumers as described in sub-  
16 section (d) for the purpose of implementing energy  
17 efficiency measures.

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

20           “(A) IN GENERAL.—As a condition to re-  
21 ceiving a loan or grant under this subsection,  
22 an eligible entity shall—

23           “(i) establish a list of energy effi-  
24 ciency measures that is expected to de-

1           crease energy use or costs of qualified con-  
2           sumers;

3           “(ii) prepare an implementation plan  
4           for use of the loan funds; and

5           “(iii) provide for appropriate measure-  
6           ment and verification to ensure the effec-  
7           tiveness of the energy efficiency loans  
8           made by the eligible entity and that there  
9           is no conflict of interest in the carrying out  
10          of this section.

11          “(B) REVISION OF LIST OF ENERGY EFFI-  
12          CIENCY MEASURES.—An eligible entity may up-  
13          date the list required under subparagraph  
14          (A)(i) to account for newly available efficiency  
15          technologies, subject to the approval of the Sec-  
16          retary.

17          “(C) EXISTING ENERGY EFFICIENCY PRO-  
18          GRAMS.—An eligible entity that, on or before  
19          the date of the enactment of this section or  
20          within 60 days after such date, has already es-  
21          tablished an energy efficiency program for  
22          qualified consumers may use an existing list of  
23          energy efficiency measures, implementation  
24          plan, or measurement and verification system of  
25          that program to satisfy the requirements of

1           subparagraph (A) if the Secretary determines  
2           the list, plans, or systems are consistent with  
3           the purposes of this section.

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

6           “(4) REPAYMENT.—A loan under this sub-  
7           section shall be repaid not more than 10 years from  
8           the date on which an advance on the loan is first  
9           made to the eligible entity.

10          “(5) LOAN FUND ADVANCES.—The Secretary  
11          shall provide eligible entities with a schedule of not  
12          more than ten years for advances of loan funds, ex-  
13          cept that any advance of loan funds to an eligible  
14          entity in any single year shall not exceed 50 percent  
15          of the approved loan amount.

16          “(6) JUMP-START GRANTS.—The Secretary  
17          shall make grants available to eligible entities se-  
18          lected to receive a loan under this subsection in  
19          order to assist an eligible entity to defray costs, in-  
20          cluding costs of contractors for equipment and labor,  
21          except that no eligible entity may receive a grant  
22          amount that is greater than four percent of the loan  
23          amount.

24          “(d) LOANS TO QUALIFIED CONSUMERS.—

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

4                   “(A) may bear interest, not to exceed three  
5                   percent, to be used for purposes that include es-  
6                   tablishing a loan loss reserve and to offset per-  
7                   sonnel and program costs of eligible entities to  
8                   provide the loans;

9                   “(B) shall finance energy efficiency meas-  
10                  ures for the purpose of decreasing energy usage  
11                  or costs of the qualified consumer by an  
12                  amount such that a loan term of not more than  
13                  ten 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 energy effi-  
17                  ciency measures made to personal property un-  
18                  less the personal property—

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

21                          “(ii) is a manufactured home;

22                  “(D) shall be repaid through charges  
23                  added to the electric bill of the qualified con-  
24                  sumer; and

1           “(E) shall require an energy audit by an  
2           eligible entity to determine the impact of pro-  
3           posed energy efficiency measures on the energy  
4           costs and consumption of the qualified con-  
5           sumer.

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

9           “(e) CONTRACT FOR MEASUREMENT AND  
10          VERIFICATION, TRAINING, AND TECHNICAL ASSIST-  
11          ANCE.—

12           “(1) CONTRACT REQUIRED.—Not later than 60  
13          days after the date of enactment of this section, the  
14          Secretary shall enter into one or more contracts with  
15          a qualified entity for the purposes of—

16           “(A) providing measurement and  
17          verification activities, including—

18           “(i) developing and completing a rec-  
19          ommended protocol for measurement and  
20          verification for the Rural Utilities Service;

21           “(ii) establishing a national measure-  
22          ment and verification committee consisting  
23          of representatives of eligible entities to as-  
24          sist the contractor in carrying out this sec-  
25          tion;



1           “(iii) providing measurement and  
2           verification consulting services to eligible  
3           entities that receive loans under this sec-  
4           tion; and

5           “(iv) providing training in measure-  
6           ment and verification; and

7           “(B) developing a program to provide tech-  
8           nical assistance and training to the employees  
9           of eligible entities to carry out this section.

10          “(2) USE OF SUBCONTRACTORS AUTHOR-  
11          IZED.—A qualified entity that enters into a contract  
12          under paragraph (1) may use subcontractors to as-  
13          sist the qualified entity in performing the contract.

14          “(f) FAST START DEMONSTRATION PROJECTS.—

15          “(1) DEMONSTRATION PROJECTS REQUIRED.—  
16          The Secretary shall enter into agreements with eligi-  
17          ble entities (or groups of eligible entities) that have  
18          energy efficiency programs described in subsection  
19          (c)(2)(C) to establish an energy efficiency loan dem-  
20          onstration projects consistent with the purposes of  
21          this section that—

22                 “(A) implement approaches to energy au-  
23                 dits and investments in energy efficiency meas-  
24                 ures that yield measurable and predictable sav-  
25                 ings;

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

4           “(C) include training for employees of eli-  
5 gible entities, including any contractors of such  
6 entities, to implement or oversee the activities  
7 described in subparagraphs (A) and (B);

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

10          “(E) reduce the need for generating capac-  
11 ity;

12          “(F) provide efficiency loans to—

13           “(i) not fewer than 20,000 consumers,  
14 in the case of a single eligible entity; or

15           “(ii) not fewer than 80,000 con-  
16 sumers, in the case of a group of eligible  
17 entities; and

18          “(G) serve areas where a large percentage  
19 of consumers reside—

20           “(i) in manufactured homes; or

21           “(ii) in housing units that are more  
22 than 50 years old.

23          “(2) DEADLINE FOR IMPLEMENTATION.—The  
24 agreements required by paragraph (1) shall be en-

1       tered into not later than 90 days after the date of  
2       enactment of this section.

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

8               “(4) ADDITIONAL DEMONSTRATION PROJECT  
9       AUTHORITY.—The Secretary may conduct dem-  
10      onstration projects in addition to the project re-  
11      quired by paragraph (1). The additional demonstra-  
12      tion projects may be carried out without regard to  
13      subparagraphs (D), (F), or (G) of paragraph (1).

14              “(g) ADDITIONAL AUTHORITY.—The authority pro-  
15      vided in this section is in addition to any authority of the  
16      Secretary to offer loans or grants under any other law.

17              “(h) AUTHORIZATION OF APPROPRIATIONS.—

18                      “(1) IN GENERAL.—There is authorized to be  
19      appropriated to the Secretary in fiscal year 2010  
20      \$993,000,000 to carry out this section. Notwith-  
21      standing paragraph (2), amounts appropriated pur-  
22      suant to this authorization of appropriations shall  
23      remain available until expended.

24                      “(2) AMOUNTS FOR LOANS, GRANTS, STAFF-  
25      ING.—Of the amounts appropriated pursuant to the

1 authorization of appropriations in paragraph (1), the  
2 Secretary shall make available—

3 “(A) \$755,000,000 for the purpose of cov-  
4 ering the cost of direct loans to eligible entities  
5 under subsection (c) to subsidize gross obliga-  
6 tions in the principal amount of not to exceed  
7 \$4,900,000,000;

8 “(B) \$25,000,000 for measurement and  
9 verification activities under subsection  
10 (e)(1)(A);

11 “(C) \$2,000,000 for the contract for train-  
12 ing and technical assistance authorized by sub-  
13 section (e)(1)(B);

14 “(D) \$200,000,000 for jump-start grants  
15 authorized by subsection (c)(6); and

16 “(E) \$1,100,000 for each of fiscal years  
17 2010 through 2019 for ten additional employ-  
18 ees of the Rural Utilities Service to carry out  
19 this section.

20 “(i) EFFECTIVE PERIOD.—Subject to subsection  
21 (h)(1) and except as otherwise provided in this section,  
22 the loans, grants, and other expenditures required to be  
23 made under this section are authorized to be made during  
24 each of fiscal years 2010 through 2014.

25 “(j) REGULATIONS.—

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

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

9                   “(A) chapter 35 of title 44, United States  
10                  Code (commonly known as the ‘Paperwork Re-  
11                  duction Act’); and

12                   “(B) the Statement of Policy of the Sec-  
13                  retary of Agriculture effective July 24, 1971  
14                  (36 Fed. Reg. 13804), relating to notices of  
15                  proposed rulemaking and public participation in  
16                  rulemaking.

17           “(3) CONGRESSIONAL REVIEW OF AGENCY  
18           RULEMAKING.—In carrying out this section, the Sec-  
19           retary shall use the authority provided under section  
20           808 of title 5, United States Code.

21           “(4) INTERIM REGULATIONS.—Notwithstanding  
22           paragraphs (1) and (2), to the extent regulations are  
23           necessary to carry out any provision of this section,

1 the Secretary shall implement such regulations  
2 through the promulgation of an interim rule.”.

○