

114TH CONGRESS
1ST SESSION

S. 878

To establish a State residential building energy efficiency upgrades loan pilot program.

IN THE SENATE OF THE UNITED STATES

MARCH 26, 2015

Mr. SANDERS (for himself, Ms. CANTWELL, Mr. WYDEN, Mr. KING, Mr. WHITEHOUSE, Mr. MARKEY, and Mr. FRANKEN) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

A BILL

To establish a State residential building energy efficiency upgrades loan pilot program.

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

3 **SECTION 1. STATE RESIDENTIAL BUILDING ENERGY EFFI-**
4 **CIENCY UPGRADES LOAN PILOT PROGRAM.**

5 (a) LOANS FOR RESIDENTIAL BUILDING ENERGY
6 EFFICIENCY UPGRADES.—Part D of title III of the En-
7 ergy Policy and Conservation Act (42 U.S.C. 6321 et seq.)
8 is amended by adding at the end the following:

1 **“SEC. 367. LOANS FOR RESIDENTIAL BUILDING ENERGY EF-**
2 **FICIENCY UPGRADES.**

3 “(a) DEFINITIONS.—In this section:

4 “(1) CONSUMER-FRIENDLY.—The term ‘con-

5 sumer-friendly’, with respect to a loan repayment

6 approach, means a loan repayment approach that—

7 “(A) emphasizes convenience for cus-

8 tomers;

9 “(B) is of low cost to consumers; and

10 “(C) emphasizes simplicity and ease of use

11 for consumers in the billing process.

12 “(2) ELIGIBLE ENTITY.—The term ‘eligible en-

13 tity’ means—

14 “(A) a State or territory of the United

15 States; and

16 “(B) a tribal organization (as defined in

17 section 4 of the Indian Self-Determination and

18 Education Assistance Act (25 U.S.C. 450b)).

19 “(3) ENERGY ADVISOR PROGRAM.—

20 “(A) IN GENERAL.—The term ‘energy ad-

21 visor program’ means any program to provide

22 to owners or residents of residential buildings

23 advice, information, and support in the identi-

24 fication, prioritization, and implementation of

25 energy efficiency and energy savings measures.

“(B) INCLUSIONS.—The term ‘energy advisor program’ includes a program that provides—

“(i) interpretation of energy audit reports;

“(ii) assistance in the prioritization of improvements;

“(iii) assistance in finding qualified contractors;

“(iv) assistance in contractor bid reviews;

“(v) education on energy conservation and energy efficiency;

“(vi) explanations of available incentives and tax credits;

“(vii) assistance in completion of rebate and incentive paperwork; and

“(viii) any other similar type of support.

“(4) ENERGY EFFICIENCY.—The term ‘energy efficiency’ means a decrease in homeowner or residential tenant consumption of energy (including electricity and thermal energy) that is achieved without reducing the quality of energy services through—

1 “(A) a measure or program that targets
2 customer behavior;

3 “(B) equipment or energy systems;

4 “(C) a device; or

5 “(D) other material.

6 “(5) ENERGY EFFICIENCY UPGRADE.—

7 “(A) IN GENERAL.—The term ‘energy effi-
8 ciency upgrade’ means any project or activity—

9 “(i) the primary purpose of which is
10 increasing energy efficiency; and

11 “(ii) that is carried out on a residen-
12 tial building.

13 “(B) INCLUSIONS.—The term ‘energy effi-
14 ciency upgrade’ includes the installation or im-
15 provement of a renewable energy facility for
16 heating or electricity generation serving a resi-
17 dential building carried out in conjunction with
18 an energy efficiency project or activity.

19 “(6) PROGRAM ENTITY.—The term ‘program
20 entity’ means a local government, utility, or other
21 entity that carries out a financing program under
22 subsection (e)(2)(A) pursuant to a contract or other
23 agreement with an eligible entity.

24 “(7) RECIPIENT HOUSEHOLD.—The term ‘re-
25 cipient household’ means the owner or tenant of a

1 residential building who receives financing under
 2 this section for an energy efficiency upgrade of the
 3 residential building.

4 “(8) RESIDENTIAL BUILDING.—

5 “(A) IN GENERAL.—The term ‘residential
 6 building’ means a building used for residential
 7 purposes.

8 “(B) INCLUSIONS.—The term ‘residential
 9 building’ includes—

10 “(i) a single-family residence;

11 “(ii) a multifamily residence composed
 12 not more than 4 units; and

13 “(iii) a mixed-use building that in-
 14 cludes not more than 4 residential units.

15 “(b) ESTABLISHMENT OF PROGRAM.—

16 “(1) IN GENERAL.—The Secretary shall estab-
 17 lish a program under this part under which the Sec-
 18 retary shall make available to eligible entities loans
 19 for the purpose of establishing or expanding pro-
 20 grams that provide to recipient households financing
 21 for energy efficiency upgrades of residential build-
 22 ings.

23 “(2) CONSULTATION.—In establishing the pro-
 24 gram under paragraph (1), the Secretary shall con-

1 sult, as the Secretary determines to be appropriate,
2 with stakeholders and the public.

3 “(3) NO REQUIREMENT TO PARTICIPATE.—No
4 eligible entity shall be required to participate in any
5 manner in the program established under paragraph
6 (1).

7 “(4) DEADLINES.—The Secretary shall—

8 “(A) not later than 1 year after the date
9 of enactment of this section, implement the pro-
10 gram established under paragraph (1) (includ-
11 ing soliciting applications from eligible entities
12 in accordance with subsection (c)); and

13 “(B) not later than 2 years after the date
14 of enactment of this section, disburse the initial
15 loans provided under this section.

16 “(c) APPLICATIONS.—

17 “(1) IN GENERAL.—To be eligible to receive a
18 loan under this section, an eligible entity shall sub-
19 mit to the Secretary an application at such time, in
20 such manner, and containing such information as
21 the Secretary may require.

22 “(2) SELECTION DATE.—Not later than 21
23 months after the date of enactment of this section,
24 the Secretary shall select eligible entities to receive
25 the initial loans provided under this section, in ac-

1 cordance with the requirements described in para-
2 graph (3).

3 “(3) REQUIREMENTS.—In selecting eligible en-
4 tities to receive loans under this section, the Sec-
5 retary shall—

6 “(A) to the maximum extent practicable,
7 ensure—

8 “(i) that both innovative and estab-
9 lished approaches to the challenges of fi-
10 nancing energy efficiency upgrades are
11 supported;

12 “(ii) that energy efficiency upgrades
13 are conducted and validated to comply with
14 best practices for work quality, as deter-
15 mined by the Secretary;

16 “(iii) regional diversity among eligible
17 entities that receive the loans, including
18 participation by rural States and small
19 States;

20 “(iv) significant participation by fami-
21 lies with income levels at or below the me-
22 dian income level for the applicable geo-
23 graphical region, as determined by the Sec-
24 retary; and

“(v) the incorporation of an energy
advisor program by, as applicable—

“(I) eligible entities; or

“(II) program entities;

“(B) evaluate applications based primarily
on—

“(i) the projected reduction in energy
use, as determined in accordance with such
specific and commonly available method-
ology as the Secretary shall establish, by
regulation;

“(ii) the creditworthiness of the eligi-
ble entity; and

“(iii) the incorporation of measures
for making the loan repayment system for
recipient households as consumer-friendly
as practicable;

“(C) evaluate applications based second-
arily on—

“(i) the extent to which the proposed
financing program of the eligible entity in-
corporates best practices for such a pro-
gram, as determined by the Secretary;

“(ii)(I) whether the eligible entity has
created a plan for evaluating the effective-

1 ness of the proposed financing program;
2 and

3 “(II) whether that plan includes—

4 “(aa) a robust strategy for col-
5 lecting, managing, and analyzing
6 data, as well as making the data
7 available to the public; and

8 “(bb) experimental studies, which
9 may include investigations of how
10 human behavior impacts the effective-
11 ness of efficiency improvements;

12 “(iii) the extent to which Federal
13 funds are matched by funding from State,
14 local, philanthropic, private sector, and
15 other sources;

16 “(iv) the extent to which the proposed
17 financing program will be coordinated and
18 marketed with other existing or planned
19 energy efficiency or energy conservation
20 programs administered by—

21 “(I) utilities and rural coopera-
22 tives;

23 “(II) State, tribal, territorial, or
24 local governments; or

1 “(III) community development fi-
 2 nancial institutions; and

3 “(v) such other factors as the Sec-
 4 retary determines to be appropriate; and

5 “(D) not provide an advantage or dis-
 6 advantage to applications that include renew-
 7 able energy in the program.

8 “(d) ADMINISTRATIVE PROVISIONS.—

9 “(1) TERM.—The Secretary shall establish
 10 terms for loans provided to eligible entities under
 11 this section—

12 “(A) in a manner that—

13 “(i) provides for a high degree of cost
 14 recovery; and

15 “(ii) ensures that, with respect to all
 16 loans provided to or by eligible entities
 17 under this section, the loans are competi-
 18 tive with, or superior to, other forms of fi-
 19 nancing for similar purposes; and

20 “(B) subject to the condition that the term
 21 of a loan provided to an eligible entity under
 22 this section shall not exceed 35 years.

23 “(2) INTEREST RATES.—

24 “(A) IN GENERAL.—Subject to subpara-
 25 graph (B), the Secretary, at the discretion of

1 the Secretary, shall charge interest on a loan
2 provided to an eligible entity under this section
3 at a fixed rate equal, or approximately equal, to
4 the interest rate charged on Treasury securities
5 of comparable maturity.

6 “(B) LEVERAGED LOANS.—The interest
7 rate and other terms of the loans provided to
8 eligible entities under this section shall be es-
9 tablished in a manner that ensures that the
10 total amount of the loans is equal to not less
11 than 20 times, and not more than 50 times, an
12 amount equivalent to 80 percent of the amount
13 appropriated for administrative and general fi-
14 nancial support costs pursuant to subsection
15 (g)(2).

16 “(3) NO PENALTY ON EARLY REPAYMENT.—
17 The Secretary shall not assess any penalty for early
18 repayment by an eligible entity of a loan provided
19 under this section.

20 “(4) RETURN OF UNUSED PORTION.—As a con-
21 dition of receipt of a loan under this section, an eli-
22 gible entity shall agree to return to the general fund
23 of the Treasury any portion of the loan amount that
24 is unused by the eligible entity within a reasonable

1 period after the date of receipt of the loan, as deter-
 2 mined by the Secretary.

3 “(e) USE OF FUNDS.—

4 “(1) IN GENERAL.—An eligible entity shall use
 5 a loan provided under this section to establish or ex-
 6 pand 1 or more financing programs—

7 “(A) the purpose of which is to enable re-
 8 cipient households to undertake energy effi-
 9 ciency upgrades of residential buildings;

10 “(B) that may, at the sole discretion of the
 11 eligible entity, require an outlay of capital by
 12 recipient households in accordance with the
 13 goals of the program under this section; and

14 “(C) that incorporate a consumer-friendly
 15 loan repayment approach.

16 “(2) STRUCTURE OF FINANCING PROGRAM.—A
 17 financing program of an eligible entity may—

18 “(A) consist—

19 “(i) primarily or entirely of a financ-
 20 ing program administered by—

21 “(I) the applicable State; or

22 “(II) a program entity; or

23 “(ii) of a combination of programs de-
 24 scribed in clause (i);

25 “(B) rely on financing provided by—

1 “(i) the eligible entity; or

2 “(ii) a third party, acting through the
3 eligible entity; and

4 “(C) include a provision pursuant to which
5 a recipient household shall agree to return to
6 the eligible entity any portion of the assistance
7 that is unused by the recipient household within
8 a reasonable period after the date of receipt of
9 the assistance, as determined by the eligible en-
10 tity.

11 “(3) FORM OF ASSISTANCE.—Assistance from
12 an eligible entity under this subsection may be pro-
13 vided in any form, or in accordance with any pro-
14 gram, authorized by Federal law (including regula-
15 tions), including in the form of—

16 “(A) a revolving loan fund;

17 “(B) a credit enhancement structure de-
18 signed to mitigate the effects of default; or

19 “(C) a program that—

20 “(i) adopts any other approach for
21 providing financing for energy efficiency
22 upgrades producing significant energy effi-
23 ciency gains; and

24 “(ii) incorporates measures for mak-
25 ing the loan repayment system for recipi-

1 ent households as consumer-friendly as
2 practicable.

3 “(4) SCOPE OF ASSISTANCE.—Assistance pro-
4 vided by an eligible entity under this subsection may
5 be used to pay for costs associated with carrying out
6 an energy efficiency upgrade, including materials
7 and labor.

8 “(5) ADDITIONAL ASSISTANCE.—In addition to
9 the amount of the loan provided to an eligible entity
10 by the Secretary under subsection (b), the eligible
11 entity or program entity, as applicable, may provide
12 to recipient households such assistance under this
13 subsection as the eligible entity or program entity
14 considers to be appropriate from any other funds of
15 the eligible entity or program entity, including funds
16 provided to the eligible entity by the Secretary for
17 administrative costs pursuant to this section.

18 “(6) LIMITATIONS.—

19 “(A) INTEREST RATES.—

20 “(i) INTEREST CHARGED BY ELIGIBLE
21 ENTITIES.—The interest rate charged by
22 an eligible entity on assistance provided
23 under this subsection—

24 “(I) shall be fixed; and

1 “(II) shall not exceed the interest
 2 rate paid by the eligible entity to the
 3 Secretary under subsection (d)(2).

4 “(ii) INTEREST CHARGED BY PRO-
 5 GRAM ENTITIES.—A program entity that
 6 receives funding from an eligible entity
 7 under this subsection for the purpose of
 8 capitalizing a residential energy efficiency
 9 financing program may charge interest on
 10 any loan provided by the program entity at
 11 a fixed rate that is as low as practicable,
 12 but not more than 5 percent more than the
 13 applicable interest rate paid by the eligible
 14 entity to the Secretary under subsection
 15 (d)(2).

16 “(B) NO PENALTY ON EARLY REPAY-
 17 MENT.—An eligible entity or program entity, as
 18 applicable, shall not assess any penalty for early
 19 repayment by any recipient household to the eli-
 20 gible entity or program entity, as applicable.

21 “(f) REPORTS.—

22 “(1) ELIGIBLE ENTITIES.—

23 “(A) IN GENERAL.—Not later than 2 years
 24 after the date of receipt of the loan, and annu-
 25 ally thereafter for the term of the loan, an eligi-

1 ble entity that receives a loan under this section
2 shall submit to the Secretary a report describ-
3 ing the performance of each program and activ-
4 ity carried out using the loan, including
5 anonymized loan performance data.

6 “(B) REQUIREMENTS.—The Secretary, in
7 consultation with eligible entities and other
8 stakeholders (such as lending institutions and
9 the real estate industry), shall establish such re-
10 quirements for the reports under this para-
11 graph as the Secretary determines to be appro-
12 priate—

13 “(i) to ensure that the reports are
14 clear, consistent, and straightforward; and

15 “(ii) taking into account the reporting
16 requirements for similar programs in
17 which the eligible entities are participating,
18 if any.

19 “(2) SECRETARY.—The Secretary shall submit
20 to Congress and make available to the public—

21 “(A) not less frequently than once each
22 year, a report describing the performance of the
23 program under this section, including a syn-
24 thesis and analysis of the information provided

1 in the reports submitted to the Secretary under
 2 paragraph (1)(A); and

3 “(B) on termination of the program under
 4 this section, an assessment of the success of,
 5 and education provided by, the measures car-
 6 ried out by eligible entities during the term of
 7 the program.

8 “(g) AUTHORIZATION OF APPROPRIATIONS.—There
 9 are authorized to be appropriated to the Secretary to carry
 10 out this section—

11 “(1) \$37,500,000 for energy advisor programs;

12 “(2) \$25,000,000 for administrative and gen-
 13 eral financial support costs to the Secretary of car-
 14 rying out this section; and

15 “(3) \$37,500,000 for administrative costs to
 16 States in carrying out this section.”.

17 (b) REORGANIZATION.—

18 (1) IN GENERAL.—Part D of title III of the
 19 Energy Policy and Conservation Act (42 U.S.C.
 20 6321 et seq.) is amended—

21 (A) by redesignating sections 362, 363,
 22 364, 365, and 366 as sections 364, 365, 366,
 23 363, and 362, respectively, and moving the sec-
 24 tions so as to appear in numerical order;

25 (B) in section 362 (as so redesignated)—

(i) in paragraph (3)(B)(i), by striking “section 367, and” and inserting “section 367 (as in effect on the day before the date of enactment of the State Energy Efficiency Programs Improvement Act of 1990 (42 U.S.C. 6201 note; Public Law 101–440)); and”;

(ii) in each of paragraphs (4) and (6), by striking “section 365(e)(1)” each place it appears and inserting “section 363(e)(1)”;

(C) in section 363 (as so redesignated)—

(i) in subsection (b), by striking “the provisions of sections 362 and 364 and subsection (a) of section 363” and inserting “sections 364, 365(a), and 366”; and

(ii) in subsection (g)(1)(A), in the second sentence, by striking “section 362” and inserting “section 364”; and

(D) in section 365 (as so redesignated)—

(i) in subsection (a)—

(I) in paragraph (1), by striking “section 362,” and inserting “section 364;”;

1 (II) in paragraph (2), by striking
 2 “section 362(b) or (e)” and inserting
 3 “subsection (b) or (e) of section 364”;
 4 and
 5 (ii) in subsection (b)(2), in the matter
 6 preceding subparagraph (A), by striking
 7 “section 362(b) or (e)” and inserting “sub-
 8 section (b) or (e) of section 364”.

9 (2) CONFORMING AMENDMENTS.—Section 391
 10 of the Energy Policy and Conservation Act (42
 11 U.S.C. 6371) is amended—

12 (A) in paragraph (2)(M), by striking “sec-
 13 tion 365(e)(2)” and inserting “section
 14 363(e)(2)”; and

15 (B) in paragraph (10), by striking “section
 16 362 of this Act” and inserting “section 364”.

17 (3) CLERICAL AMENDMENT.—The table of con-
 18 tents of the Energy Policy and Conservation Act (42
 19 U.S.C. 6201 note; Public Law 94–163) is amended
 20 by striking the items relating to part D of title III
 21 and inserting the following:

“PART D—STATE ENERGY CONSERVATION PROGRAMS

“Sec. 361. Findings and purpose.

“Sec. 362. Definitions.

“Sec. 363. General provisions.

“Sec. 364. State energy conservation plans.

“Sec. 365. Federal assistance to States.

“Sec. 366. State energy efficiency goals.

“Sec. 367. Loans for residential building energy efficiency upgrades.”.

1 **SEC. 2. OFFSET.**

2 Section 422(f) of the Energy Independence and Secu-
3 rity Act of 2007 (42 U.S.C. 17082(f)) is amended—

4 (1) in paragraph (3), by striking “and” after
5 the semicolon at the end; and

6 (2) by striking paragraph (4) and inserting the
7 following:

8 “(4) \$200,000,000 for each of fiscal years 2013
9 through 2015; and

10 “(5) \$166,666,666 for each of fiscal years 2016
11 through 2018.”.

○