

RURAL ENERGY SAVINGS PROGRAM ACT

SEPTEMBER 14, 2010.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. PETERSON, from the Committee on Agriculture, submitted the following

R E P O R T

together with

DISSENTING VIEWS

[To accompany H.R. 4785]

[Including cost estimate of the Congressional Budget Office]

The Committee on Agriculture, to whom was referred the bill (H.R. 4785) to amend the miscellaneous rural development provisions of the Farm Security and Rural Investment Act of 2002 to authorize the Secretary of Agriculture to make loans to certain entities that will use the funds to make loans to consumers to implement energy efficiency measures involving structural improvements and investments in cost-effective, commercial off-the-shelf technologies to reduce home energy use, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

The amendments are as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

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

SEC. 2. RURAL ENERGY SAVINGS PROGRAM.

(a) PURPOSE.—The purpose of this section is to create and save jobs by providing loans to qualified consumers who will use the loan proceeds to implement energy efficiency measures to achieve significant reductions in energy costs, energy consumption, or carbon emissions.

(b) DEFINITIONS.—In this section:

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

(A) any public or cooperative electric utility that is eligible to borrow from the Rural Utilities Service electrification program authorized under the

Rural Electrification Act of 1936 (7 U.S.C. 901 et seq.) that serves a rural area defined by that Act;

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

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

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

(3) QUALIFIED CONSUMER.—The term “qualified consumer” means a consumer served by an eligible entity that has the ability to repay a loan made under subsection (d), as determined by an eligible entity.

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

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

(B) training, education, and consulting;

(C) guidance in energy and operational issues and rural community and economic development; and

(D) other relevant assistance, as determined by the Secretary.

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

(A) a city or town that has a population of greater than 50,000 inhabitants; and

(B) any urbanized area contiguous and adjacent to a city or town described in subparagraph (A).

(6) SECRETARY.—The term “Secretary” means the Secretary of Agriculture, acting through the Rural Utilities Service.

(c) LOANS TO ELIGIBLE ENTITIES.—

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

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

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

(i) establish a list of energy efficiency measures expected to decrease energy use or costs of a qualified consumer;

(ii) prepare an implementation plan for use of the loan funds to ensure that a loan to a qualified consumer is at least commensurate with the expected energy savings the qualified consumer shall expect to receive from the activities funded by the loan; and

(iii) provide for appropriate measurement and verification to ensure the effectiveness of the energy efficiency loans made by the eligible entity.

(B) REVISION OF LIST OF ENERGY EFFICIENCY MEASURES.—An eligible entity may update the list required under subparagraph (A)(i) to account for newly available efficiency technologies, subject to the approval of the Secretary.

(C) EXISTING ENERGY EFFICIENCY PROGRAMS.—An eligible entity that, on or before the date of the enactment of this Act or within 60 days after such date, has already established an energy efficiency program for qualified consumers may use an existing list of energy efficiency measures, implementation plans, or measurement and verification systems to satisfy the requirements of subparagraph (A) if the Secretary determines the list, plans, or systems are consistent with the purposes of subsection (a).

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

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

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

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

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

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

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

- (i) IN GENERAL.—In order to assist an eligible entity in defraying initial start-up costs, the Secretary shall allow an eligible entity to request a special advance.
- (ii) AMOUNT OF SPECIAL ADVANCE.—No eligible entity may receive a special advance under this subparagraph for an amount that is greater than 4 percent of the loan amount received by the eligible entity under paragraph (1).
- (iii) REPAYMENT.—The repayment of the special advance shall be required within 10 years after the special advance is made and, at the election of the eligible entity, may be deferred to the end of the 10-year period.
- (E) LIMITATION ON ADVANCES.—All advances shall be made under a loan described in paragraph (1) within the first 10 years of the term of the loan.
- (d) LOANS TO QUALIFIED CONSUMERS.—
 - (1) TERMS OF LOANS.—Loans made by an eligible entity to qualified consumers using loan funds provided by the Secretary under subsection (c)—
 - (A) may bear interest, not to exceed three percent, to be used by the eligible entity for purposes such as establishing a loan loss reserve and to offset personnel and program costs of the eligible entity to provide the loans;
 - (B) shall finance energy efficiency measures for the purpose of decreasing energy usage or costs of a qualified consumer by an amount such that a loan term of not more than 10 years will not pose an undue financial burden on the qualified consumer, as determined by the eligible entity;
 - (C) shall not be used to fund purchases of, or modifications to, personal property unless the personal property—
 - (i) is or becomes attached to real property as a fixture; or
 - (ii) is a manufactured home;
 - (D) shall be repaid through charges added to the electric bill for the property for, or at which energy efficiency measures are or will be implemented, except that this requirement shall not be construed to prohibit—
 - (i) the voluntary prepayment of a loan by the owner of the property;
 - or
 - (ii) the use of any additional repayment mechanisms that are—
 - (I) demonstrated to have appropriate risk mitigation features, as determined by the eligible entity; or
 - (II) required if the qualified consumer is no longer a customer of the eligible entity; and
 - (E) shall require an energy audit to determine the impact of proposed energy efficiency measures on the energy costs and consumption of the qualified consumer.
 - (2) CONTRACTORS.—In addition to any other qualified general contractor, eligible entities may serve as general contractors.
 - (3) USE OF OTHER ENERGY EFFICIENCY INCENTIVES.—Energy efficiency incentives made available under any other Act, including rebates, grants, or any other payments, may be used to reduce the amount of a loan made under this subsection to qualified consumers in order to meet the requirement of paragraph (1)(B).
- (e) MEASUREMENT, VERIFICATION, TRAINING, AND TECHNICAL ASSISTANCE.—
 - (1) DUTIES OF THE SECRETARY.—Not later than 60 days after the date of enactment of this Act, the Secretary shall—
 - (A) develop a protocol for eligible entities and qualified entities to use in measuring energy consumption and verifying the effectiveness of energy efficiency measures;
 - (B) establish a measurement and verification advisory committee consisting of representatives of eligible entities and qualified entities;
 - (C) enter into one or more cooperative agreements with qualified entities to provide technical assistance and training to the employees of eligible entities to carry out this section; and
 - (D) establish a process to compile and maintain a directory of energy efficiency auditors that are used by eligible entities to carry out this section.
 - (2) EXCEPTION.—
 - (A) The Secretary shall not utilize the authority provided under this subsection or subsection (k) to—
 - (i) develop, adopt, or implement a public labeling system that rates and compares the energy performance among qualified consumers; or
 - (ii) require the public disclosure of an energy performance evaluation or rating developed for any qualified consumer.
 - (B) Nothing in this paragraph shall preclude—

- (i) the computation, collection, or use, by the Secretary, eligible entity, or qualified entity for the purposes aggregating information on the rating and comparison of the energy performance among qualified consumers with and without energy efficiency features or on energy performance evaluation or rating;
 - (ii) the use and publication of aggregate data (without identifying individual qualified consumers) based on information referred to in clause (i) to determine or demonstrate the performance of this program; or
 - (iii) the provision of information referred to in clause (i) with respect to a qualified consumer:
 - (I) to the State, eligible consumer, eligible entity, or qualified entity, as necessary to enable carrying out this Act; or
 - (II) for purposes of prosecuting fraud and abuse.
- (f) FAST START DEMONSTRATION PROJECTS.—
 - (1) DEMONSTRATION PROJECTS REQUIRED.—The Secretary shall enter into agreements with eligible entities (or groups of eligible entities) that have established an energy efficiency program described in subsection (c)(2)(C) to establish an energy efficiency loan demonstration projects consistent with the purposes of this section that—
 - (A) implement approaches to energy audits and investments in energy efficiency measures that yield measurable and predictable savings;
 - (B) use measurement and verification processes to determine the effectiveness of energy efficiency loans made by eligible entities;
 - (C) include training for employees of eligible entities, including any contractors of such entities, to implement or oversee the activities described in subparagraphs (A) and (B);
 - (D) provide for the participation of a majority of eligible entities in a State;
 - (E) reduce the need for generating capacity;
 - (F) provide efficiency loans to—
 - (i) not fewer than 20,000 consumers, in the case of a single eligible entity; or
 - (ii) not fewer than 80,000 consumers, in the case of a group of eligible entities; and
 - (G) serve areas where a large percentage of consumers reside—
 - (i) in manufactured homes; or
 - (ii) in housing units that are more than 50 years old.
 - (2) DEADLINE FOR IMPLEMENTATION.—The agreements required by paragraph (1) shall be entered into not later than 90 days after the date of enactment of this Act.
 - (3) EFFECT ON AVAILABILITY OF LOANS NATIONALLY.—Nothing in this subsection shall delay the availability of loans to eligible entities on a national basis beginning not later than 180 days after the date of the enactment of this Act.
 - (4) ADDITIONAL DEMONSTRATION PROJECT AUTHORITY.—The Secretary may conduct demonstration projects in addition to the project required by paragraph (1). An additional demonstration project may be carried out without regard to subparagraphs (D), (F), or (G) of paragraph (1).
- (g) ADDITIONAL AUTHORITY.—The authority provided in this section is in addition to any authority of the Secretary to offer loans under any other law.
- (h) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary \$993,000,000 to carry out this section, which shall remain available until expended.
- (i) EFFECTIVE PERIOD.—Subject to subsection (h)(1) and except as otherwise provided in this section, the loans and other expenditures required to be made under this section are authorized to be made during each of fiscal years 2010 through 2014.
- (j) REPORTING REQUIREMENT.—Not later than one year after the date of the enactment of this Act, the Secretary shall submit to the Committee on Agriculture, Nutrition, and Forestry of the Senate and the Committee on Agriculture of the House of Representatives a report describing the implementation of this section.
- (k) REGULATIONS.—
 - (1) IN GENERAL.—Except as otherwise provided in this subsection, not later than 180 days after the date of enactment of this section, the Secretary shall promulgate such regulations as are necessary to implement this section.
 - (2) PROCEDURE.—The promulgation of the regulations and administration of this section shall be made without regard to—

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

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

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

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

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

Amend the title so as to read:

A bill to authorize the Secretary of Agriculture to make loans to certain entities that agree that the funds will be used 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 energy use, and for other purposes.

BRIEF EXPLANATION

H.R. 4785 authorizes the Secretary of Agriculture to make loans to certain entities that agree that the funds will be used 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 energy use, and for other purposes.

PURPOSE AND NEED

Rural customers are facing increasing costs for electric power. Rural electric cooperatives are facing a growing demand for electric power at a time when they are constrained from building new generation capacity.

H.R. 4785, the “Rural Energy Savings Program Act” introduced by Congressman James Clyburn of South Carolina, establishes a program to provide rural consumers and rural electric cooperatives with the tools necessary to lower the amount of electric power used in homes, farms, and small businesses, thereby decreasing the costs of energy for rural communities.

The base text of the bill authorizes the Secretary of Agriculture (“Secretary”) to make zero-interest loans to eligible entities, which are to use the loan funds to make low-interest loans to qualified consumers for the purpose of implementing energy efficiency measures on the qualified consumers’ property.

As a condition of receiving a loan under the program, the eligible entity is required to: establish a list of energy efficiency measures that are expected to decrease the qualified consumers’ energy use or cost; prepare an implementation plan for use of the loan funds; and provide for appropriate measurement and verification to ensure the effectiveness of the energy efficiency loans made by the eligible entity. To help defray initial start-up costs, the base text of the bill authorizes the Secretary to provide eligible entities with “jump-start” grants.

The base text of the bill requires the Secretary to provide eligible entities with a 10-year schedule for loan fund advances. Loans made by the eligible entity to the qualified consumer must not ex-

ceed three-percent interest. Loan funds must be used to finance energy efficiency measures for the purpose of decreasing energy usage or costs for the qualified consumer by an amount such that the 10-year loan term would not cause an undue financial burden on the qualified consumer. Loan funds cannot be used to fund energy efficiency measures to personal property, unless the personal property becomes attached to real property as a fixture, or is a manufactured home.

Loans made to qualified consumers are to be repaid through charges on the qualified consumers' electric bill. Also, in order for a qualified consumer to receive a loan under the program, the consumer must agree to have an energy audit conducted on his or her property. The purpose of the energy audit is to determine the impact of the proposed energy efficiency measures on the qualified consumers' energy costs and consumption.

The base text of the bill requires the Secretary to enter into one or more contracts with a qualified entity for a number of purposes, including: developing and completing a protocol for measurement and verification for the Rural Utilities Service ("RUS"); establishing a national measurement and verification committee consisting of representatives of eligible entities; providing training in measurement and verification; and developing a program to provide technical assistance and training for employees of qualified entities.

The base text of the legislation allows eligible entities, or groups of eligible entities, that already have already established energy efficiency programs that would meet the requirements laid out in the bill, to enter into agreements with the Secretary to establish fast-start energy efficiency loan demonstration projects.

The base text authorizes \$993 million in appropriations for fiscal year 2010 to carry out the program. Of that amount: \$755 million is to be appropriated to cover the costs of direct loans to eligible entities; \$25 million is to be appropriated for measurement and verification activities; \$2 million is to be appropriated for the contract for training and technical assistance; and \$200 million is to be appropriated for jump-start grants. Another \$1.1 million is to be appropriated for each of the fiscal years 2010 through 2019 to provide the RUS with funds to allow it to hire 10 additional employees to carry out the loan program.

During a hearing held on May 12 of this year by the Subcommittee on Conservation, Credit, Energy, and Research, a number of Members expressed concerns about the legislation. The Members who expressed concerns were concerned about the grant funding contained in the legislation, the loan authorization amount, the loan repayment structure, the authorization of new spending, and the idea of creating a new program.

In an effort to address some of the concerns expressed by the Members who had concerns, an Amendment in the Nature of a Substitute ("ANS") was drafted. The ANS retains the concept that the Secretary is to make zero-interest loans to eligible entities, which are then to use the loan funds to make low-interest loans to qualified consumers for the purpose of implementing energy efficiency measures on the qualified consumers' property.

The ANS, however, narrowed the focus of the legislation so that the program is restricted to "rural areas". Current RUS borrowers

will be eligible for the program, but those not currently borrowing from RUS will have to meet the rural area test to participate in the program. The rural area definition contained in the ANS is the same definition that is used in the Consolidated Farm and Rural Development Act.

Because some Members were concerned that the loan repayment structure contained in the base text because was structured like a line of credit, the ANS changed the loan repayment structure so that any loan made to an eligible entity has a 20-year term. Additionally, the ANS struck the jump-start grant provisions. Instead of providing jump-start grant funding, the ANS allows eligible entities to receive a special loan advance to help defray the upfront costs for eligible entities to get their program up and running. The special loan advance is not to exceed more than four percent on the loan funds to be distributed. The ANS also requires the qualified consumer to agree to have an energy audit conducted on his or her property as a condition of receiving a loan. The purpose of the energy audit is to discover where problems in energy usage occur and provide a way for consumers to correct any problems.

The ANS allows energy efficiency incentives made available under any other Act, including rebates, grants or any other payments, to be used to reduce the amount of the qualified consumers' loan.

The ANS requires the Secretary to: develop a protocol for eligible entities and qualified entities to use in measuring energy consumption and verifying the effectiveness of energy efficiency measures; establish a measurement and verification advisory committee; enter into one or more cooperative agreements with qualified entities to provide technical assistance and training to the employees of eligible entities; and establish a process to compile and maintain a directory of energy efficiency auditors that are used by eligible entities. However, The Secretary is prohibited from: developing, adopting, or implementing a public labeling system that rates and compares the energy performance among qualified consumers; or requiring the public disclosure of an energy performance evaluation or rating developed for any qualified consumer.

The ANS maintains the \$993 million appropriation contained in the base text. However, of that amount, the ANS calls for not less than 76 percent to be appropriated to cover the costs of direct loans to eligible entities; not less than 2.5 percent to be appropriated for developing the protocol for eligible entities and qualified entities to use in measuring energy consumption and verifying the effectiveness of energy efficiency measures; and not less than 0.2 percent to be appropriated for establishing the measurement and verification advisory committee. The ANS retains the \$1.1 million appropriation for 10 additional RUS employees to carry out the program.

During the July 14 mark-up of the legislation, the Committee adopted three amendments: one amendment prohibits the Secretary from using the authority given to the Secretary under the legislation to promulgate regulations that would establish an energy labeling program for a qualified consumer's property; a second amendment requires the Secretary to conduct an audit of the program to ensure that federal funds are being provided to eligible entities, in accordance with the purpose of the Act; and the third

amendment struck the \$1.1 million appropriation for the 10 additional RUS employees to carry out the program.

SECTION-BY-SECTION ANALYSIS

Section 1. SHORT TITLE.

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

Section 2. RURAL ENERGY SAVINGS PROGRAM.

Provides that the purpose of the legislation is to create and save jobs by providing loans to qualified consumers to use loan proceeds to implement energy efficiency measures to achieve significant reductions in energy costs, energy consumption, or carbon emissions.

Defines the terms: eligible entity; energy efficiency measure; qualified consumer; qualified entity; rural area, and Secretary.

Authorizes the Secretary of Agriculture (“Secretary”) to make loans to eligible entities that agree that the loan funds will be used to make loans to qualified consumers for the purpose of implementing energy efficiency measures.

As a condition of receiving a loan, an eligible entity is required to: (1) establish a list of energy efficiency measures that are expected to decrease energy use or costs for qualified consumers; (2) prepare an implementation plan for use of the loan funds to ensure that a loan to a qualified consumer is at least commensurate with the expected energy savings the qualified consumer expects to receive from the measures funded by the loan; and (3) provide for appropriate measurement and verification to ensure the effectiveness of the energy efficiency loans made by eligible entities.

Eligible entities are permitted to update or revise the list of energy efficiency measures to account for newly available efficiency technologies, subject to the Secretary’s approval.

Eligible entities that have already established energy efficiency programs for qualified consumers are allowed to use their existing list of energy efficiency measures, implementation plans, or measurement or verification systems, if the Secretary determines that the lists, plans, or systems are consistent with the purposes of the legislation.

Loans to eligible entities are to bear no interest. Loan terms are not to exceed 20 years from the date the loan is closed. The repayment of each loan advance is to be amortized for a period not to exceed 10 years. An advance of loan funds to an eligible entity is not to exceed 30 percent of the approved loan amount.

Authorizes the Secretary to allow eligible entities to request a special advance to assist them in defraying initial start-up costs. Special advances are to be no greater than 4 percent of the loan amount the eligible entity receives. Repayment of the special advance is required to be made within 10 years after it is made and, at the election of the eligible entity, may be deferred to the end of the 10-year period.

All loan advances made under the program are to be made within the first 10 years of the term of the loan.

Loans made by an eligible entity to a qualified consumer: (1) may bear interest, not to exceed 3 percent, to be used by the eligible entity for purposes such as establishing a loan loss reserve fund and

to offset personnel and program costs of the eligible entity to provide the loans; (2) must finance energy efficiency measures for the purpose of decreasing energy usage or costs of the qualified consumer by an amount such that the loan term is not more than 10 years, nor will pose an undue financial burden on the qualified consumer.

Loan funds cannot be used to fund purchases of, or modifications to, personal property unless such property is, or becomes attached to, real property as a fixture. Loan funds cannot be used to purchase manufactured homes.

Loan funds are to be repaid by the qualified consumer through charges added to the qualified consumer's electric bill. Qualified consumers are not prohibited from voluntarily prepaying a loan. The use of additional repayment mechanisms that are demonstrated to have appropriate risk mitigation factors, as determined by the eligible entity, or are required if the qualified consumer is no longer a customer of the eligible entity, are not prohibited.

To receive a loan, an energy audit must be conducted to determine the impact of the proposed energy efficiency measures on the energy costs and energy consumption of the qualified consumer.

Eligible entities can serve as general contractors, in addition to any other qualified general contractor.

Allows for the reduction of the amount of loan funds authorized under this legislation with respect to energy efficiency incentives made under any other Act, including rebates, grants, or any other payments.

Not later than 60 days after the date of the enactment of the legislation the Secretary is required to: (1) develop a protocol for eligible entities and qualified entities to use in measuring energy consumption and verifying the effectiveness of energy efficiency measures; (2) establish a measurement and verification advisory committee consisting of representatives of eligible entities and qualified entities; (3) enter into one or more cooperative agreements with qualified entities to provide technical assistance and training to the employees of eligible entities; and establish a process to compile and maintain a directory of energy efficiency auditors that are used by eligible entities.

Prohibits the Secretary from using the authority provided by the legislation to: develop, adopt, or implement a public labeling system that rates and compares the energy performance among qualified consumers; or require the public disclosure of an energy performance evaluation or rating developed for any qualified consumer.

Prohibits the Secretary from promulgating regulations to: develop, adopt, or implement a public labeling system that rates and compares the energy performance among qualified consumers; or require the public disclosure of an energy performance evaluation or rating developed for any qualified consumer.

The Secretary, eligible entities, or qualified entities are not prohibited from computing, collecting, or using aggregate information for the purposes of rating and comparing the energy performance among qualified consumers with and without energy efficiency features, or on energy performance evaluation or rating.

The Secretary, eligible entities, or qualified entities are not prohibited from using and publishing aggregate data (without identifying individual qualified consumers) based on aggregate information to determine or demonstrate the performance of the loan program.

Authorizes the Secretary to establish energy efficiency loan demonstration projects consistent with the purposes of the legislation.

The deadline for entering into demonstration project agreements is to be not later than 90 days after the enactment of the legislation.

Authorizes the Secretary to conduct additional demonstration projects.

The availability of loans authorized by the legislation is not to be delayed beginning not later than 180 days after the enactment of the legislation.

Specifies that the authority given to the Secretary by the legislation is in addition to any authority of the Secretary to offer loans under any other law.

Provides for an appropriation of \$993 million, to remain available until expended, to carry out the loan program.

Loans and other expenditures authorized by the legislation are to be made during each of the fiscal years 2010 through 2014.

Requires the Secretary to submit, not later than one year after the date of the enactment of the legislation, a report describing the implementation of the loan program to the House and Senate Agriculture Committees.

Requires the Secretary to: not later than 180 days after the date of the enactment of the legislation, promulgate regulations that are necessary to implement the legislation; and, to the extent regulations are necessary to carry out any provision of the legislation, implement regulations through the promulgation of an interim rule.

Requires the Secretary to conduct an audit of the program to ensure that the funds provided to eligible entities are used in accordance with the purpose of the legislation.

COMMITTEE CONSIDERATION

HEARINGS

The Subcommittee on Conservation, Credit, Energy, and Research held a hearing on May 12, 2010. Testimony was heard from nine witnesses on three separate panels that included Members of Congress.

FULL COMMITTEE CONSIDERATION

On July 14, 2010, the Committee on Agriculture met, pursuant to notice, with a quorum present to consider H.R. 4785. Mr. Peterson offered an opening statement, as did Ranking Member Lucas.

The bill, H.R. 4785, was placed before the Committee for consideration and without objection a first reading of the bill was waived and it was opened for amendment at any point. Counsel was recognized for a brief explanation of the bill. The chairman offered an Amendment in the Nature of a Substitute to the bill, H.R. 4785, and counsel provided a brief explanation of that amendment.

Mrs. Dahlkemper was recognized to offer and explain an amendment that would require the Secretary to conduct an audit of the

program to ensure that federal funds are being provided to eligible entities, in accordance with the purpose of the act. Discussion occurred and by voice vote, the Dahlkemper Amendment to the Amendment in the Nature of a Substitute was adopted.

Mr. Holden was recognized to offer and explain an amendment that would prohibit the Secretary from using the authority given under the legislation to promulgate regulations that would establish an energy labeling program for the qualified consumer's property. Discussion occurred and by voice vote, the Holden Amendment to the Amendment in the Nature of a Substitute was adopted.

Mr. Marshall was recognized to offer and explain an amendment that would restrict consumer loans to individuals who make less than three times the poverty level. Discussion occurred and by voice vote, the Marshall Amendment to the Amendment in the Nature of a Substitute to H.R. 4785 failed. Mr. Neugebauer requested a recorded vote. The results of the recorded vote were: 12 yeas, 28 nays, 6 not voting. The Marshall Amendment was not adopted. (See Roll Call #1).

Ms. Lummis and Mr. Luetkemeyer were recognized to offer and explain an amendment that would remove the authorization of \$1,100,000 for each of the fiscal years 2010 through 2019 for ten additional Rural Utilities Service employees. Discussion occurred and by voice vote the Lummis/Luetkemeyer Amendment to the Amendment in the Nature of a Substitute was adopted.

By voice vote, the Lucas motion to approve the Amendment in the Nature of a Substitute to H.R. 4785 as amended, was adopted.

By voice vote, the Lucas motion to report the bill H.R. 4785 as amended favorably to the House with the recommendation that it do pass was adopted.

Mr. Lucas reserved the right for minority views to the bill, H.R. 4785 to be filed in the report.

Without objection, the usual instructions were given to staff that consist of making such technical, clarifying or conforming changes as are appropriate without changing the substance of the legislation.

Chairman Peterson thanked all the Members and adjourned the meeting subject to the call of the chair.

REPORTING THE BILL—ROLL CALL VOTES

In compliance with clause 3(b) of Rule XIII of the House of Representatives, the Committee sets forth the record of the following roll call votes taken with respect to H.R. 4785.

Roll Call #1

Summary: Amendment to restrict consumer loans to individuals who make less than three times the poverty level.

Offered by: Mr. Marshall of Georgia

Results: Amendment failed by a vote of 12 yeas, 28 nays, and 6 not voting.

YEAS

- | | |
|------------------|---------------------|
| 1. Mr. Baca | 7. Mr. King |
| 2. Mr. Marshall | 8. Mr. Neugebauer |
| 3. Mr. Boccieri | 9. Mr. Conaway |
| 4. Mr. Murphy | 10. Mr. Fortenberry |
| 5. Mr. Goodlatte | 11. Mrs. Schmidt |
| 6. Mr. Moran | 12. Mr. Rooney |

NAYS

- | | |
|------------------------|---------------------|
| 1. Mr. Holden | 15. Ms. Markey |
| 2. Mr. McIntyre | 16. Mr. Kratovil |
| 3. Mr. Boswell | 17. Mr. Schauer |
| 4. Mr. Cardoza | 18. Mr. Kissell |
| 5. Mr. Scott | 19. Mr. Owens |
| 6. Ms. Herseth Sandlin | 20. Mr. Childers |
| 7. Mr. Cuellar | 21. Mr. Minnick |
| 8. Mr. Costa | 22. Mr. Lucas |
| 9. Mr. Ellsworth | 23. Mr. Johnson |
| 10. Mr. Walz | 24. Mr. Rogers |
| 11. Mr. Schrader | 25. Mr. Smith |
| 12. Mrs. Halvorson | 26. Mr. Luetkemeyer |
| 13. Mrs. Dahlkemper | 27. Mrs. Lummis |
| 14. Mr. Bright | 28. Mr. Peterson |

NOT VOTING

- | | |
|----------------|-----------------|
| 1. Mr. Kagen | 4. Mr. Roe |
| 2. Mr. Pomeroy | 5. Mr. Thompson |
| 3. Mr. Graves | 6. Mr. Cassidy |

COMMITTEE OVERSIGHT FINDINGS

Pursuant to clause 3(c)(1) of Rule XIII of the Rules of the House of Representatives, the Committee on Agriculture's oversight findings and recommendations are reflected in the body of this report.

BUDGET ACT COMPLIANCE (SECTIONS 308, 402, AND 423)

The provisions of clause 3(c)(2) of Rule XIII of the Rules of the House of Representatives and section 308(a)(1) of the Congressional Budget Act of 1974 (relating to estimates of new budget authority, new spending authority, new credit authority, or increased or decreased revenues or tax expenditures) are not considered applicable. The estimate and comparison required to be prepared by the Director of the Congressional Budget Office under clause 3(c)(3) of Rule XIII of the Rules of the House of Representatives and sections 402 and 423 of the Congressional Budget Act of 1974 submitted to the Committee prior to the filing of this report are as follows:

SEPTEMBER 13, 2010.

Hon. COLLIN C. PETERSON,
Chairman, Committee on Agriculture,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 4785, the Rural Energy Savings Program Act.

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. 4785—Rural Energy Savings Program Act

Summary: H.R. 4785 would authorize the Secretary of Agriculture, through the Rural Utilities Service (RUS), to make loans to certain public or cooperative electric utilities. Under the bill, participating cooperatives would, in turn, make low-interest loans to customers to support installations of energy-efficiency measures. The bill would authorize the appropriation of \$993 million to cover the federal cost of such activities.

Assuming appropriation of the specified amount, CBO estimates that implementing H.R. 4785 would cost \$800 million over the 2011–2015 period. Enacting H.R. 4785 would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply.

H.R. 4785 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no costs on state, local, or tribal governments.

Estimated cost to the Federal Government: The estimated budgetary impact of H.R. 4785 is shown in the following table. The costs of this legislation fall within budget function 270 (energy).

	By fiscal year, in millions of dollars—					
	2011	2012	2013	2014	2015	2011–2015
CHANGES IN SPENDING SUBJECT TO APPROPRIATION						
Authorization Level	993	0	0	0	0	993
Estimated Outlays	150	210	160	120	160	800

Basis of Estimate: For this estimate, CBO assumes that H.R. 4785 will be enacted in 2010 and that appropriations will be provided as specified by the bill. We assume that about \$10 million of authorized funds would be used each year by RUS to expand staffing as necessary to administer the proposed program. Based on information from RUS about the likely subsidy rate of the proposed loans (ranging from 20 percent to 25 percent), CBO estimates that remaining amounts would be used to leverage between \$4 billion and \$5 billion in new loans to local electric cooperatives. Based on historical disbursement rates for RUS loans, CBO estimates that resulting spending under H.R. 4785 would total \$800 million over the 2011–2015 period.

Pay-as-You-Go Considerations: None.

Intergovernmental and Private-Sector Impact: H.R. 4785 contains no intergovernmental or private-sector mandates as defined in UMRA and would impose no costs on state, local, or tribal governments.

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.

PERFORMANCE GOALS AND OBJECTIVES

With respect to the requirement of clause 3(c)(4) of Rule XIII of the Rules of the House of Representatives, the performance goals and objections of this legislation are to make loans to certain entities that agree that the funds will be used to make loans to con-

sumers to implement energy efficiency measures involving structural improvements and investments in cost-effective, commercial off-the shelf technologies to reduce energy use, and for other purposes.

CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to clause 3(d)(1) of Rule XIII of the Rules of the House of Representatives, the Committee finds the Constitutional authority for this legislation in Article I, clause 8, section 18, that grants Congress the power to make all laws necessary and proper for carrying out the powers vested by Congress in the Constitution of the United States or in any department or officer thereof.

COMMITTEE COST ESTIMATE

Pursuant to clause 3(d)(2) of Rule XIII of the Rules of the House of Representatives, the Committee report incorporates the cost estimate prepared by the Director of the Congressional Budget Office pursuant to sections 402 and 423 of the Congressional Budget Act of 1974.

ADVISORY COMMITTEE STATEMENT

In accordance with section 5(b) of the Federal Advisory Committee Act, the Committee finds that the advisory committee established by section 2 is necessary to carry out the functions and responsibilities contained therein.

APPLICABILITY TO THE LEGISLATIVE BRANCH

The Committee finds that the legislation 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 (Public Law 104–1).

FEDERAL MANDATES STATEMENT

The Committee adopted as its own the estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act (Public Law 104–4).

EARMARK STATEMENT REQUIRED BY CLAUSE 9 OF RULE XXI OF THE RULES OF THE HOUSE OF REPRESENTATIVES

H.R. 4785 does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(e), 9(f), or 9(g) of rule XXI of the rules of the House of Representatives.

DISSENTING VIEWS ON H.R. 4785, THE RURAL ENERGY SAVINGS PROGRAM

Rural electric cooperatives are facing an increase in energy demand due to a growing customer base. This demand is becoming challenging to meet because of unnecessary regulatory hurdles and the looming energy tax and CO2 regulation being supported by President Obama and the Democratic leadership.

H.R. 4785, the Rural Energy Savings Program Act, creates a re-lending program allowing USDA to provide zero interest loans to rural electric cooperatives who in return provide low interest loans to customers for energy efficiency projects to their homes. Customers would be able to repay their loans through their monthly utility bill. In theory, these customers would over time reduce energy consumption and reduce their energy bills.

The sponsor and supporters of this legislation have attempted to give rural electricity providers the tools to meet the demands of its customers by reducing energy use through energy efficiency projects. Energy efficiency is an important step in an overall energy plan, but creating a new program is not the solution. Just in the last few years, Congress has authorized energy efficiency appliance rebate programs, state lending programs for energy efficiency, training programs for green jobs, and tax credits for home owners, builders and even manufacturers to promote energy efficient measures. The American Recovery and Reinvestment Act (ARRA) alone funded the Weatherization Assistance Program, a grant program for low income families for home energy efficiency projects, at \$5.25 billion.

This issue can be addressed in the farm bill by making adjustments to current programs. The 2008 Farm Bill included a provision that would have allowed rural electric cooperatives to expand clean energy production and provide affordable electricity for its customers. However, this provision was stripped by Speaker Pelosi. As a result, rural electric coops can not access RUS lending for new base load generation. In other words, base load generation from sources such as nuclear, natural gas, and clean coal technologies is difficult, if not impossible, to finance through the program.

Additionally, President Obama's recent budget proposal called for a \$2.5 billion cut to the electric loan program as well as restricting any lending for improving or expanding natural gas plants. These energy policies will make it increasingly more difficult to provide homes, schools, businesses and farms across rural America with affordable electricity.

Unfortunately, the Democratic leadership is pushing energy policy that will create increased and burdensome energy costs for Americans. As a result, we are creating new programs that increase spending to address the consequences of these policies. Congress should be exploring policies that will capitalize on our domes-

tic energy resources to meet increased demands, such as clean coal technologies, clean burning natural gas, and nuclear energy.

FRANK D. LUCAS

