

To provide for the establishment of a Home Star Retrofit Rebate Program, and for other purposes.

IN THE SENATE OF THE UNITED STATES

**March 25, 2010**

Mr. BINGAMAN (for himself, Mr. WARNER, and Mr. GRAHAM) introduced the following bill; which was read twice and referred to the Committee on Finance

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## **SECTION 1. SHORT TITLE.**

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

## **SEC. 2. DEFINITIONS.**

In this Act:

- (1) ACCREDITED CONTRACTOR- The term 'accredited contractor' means a residential energy efficiency contractor that meets the minimum applicable requirements established under section 4.
- (2) ADMINISTRATOR- The term 'Administrator' means the Administrator of the Environmental Protection Agency.
- (3) BPI- The term 'BPI' means the Building Performance Institute.
- (4) CERTIFIED WORKFORCE- The term 'certified workforce' means a residential energy efficiency construction workforce that is entirely certified in the appropriate job skills for all employees performing installation work under--
  - (A) an applicable third party skills standard established by--
    - (i) the BPI;
    - (ii) the North American Technician Excellence; or
    - (iii) the Laborers' International Union of North America; or
  - (B) other standards approved by the Secretary, in consultation with the Secretary of Labor and the Administrator.
- (5) CONDITIONED SPACE- The term 'conditioned space' means the area of a home that is--
  - (A) intended for habitation; and
  - (B) intentionally heated or cooled.
- (6) DOE- The term 'DOE' means the Department of Energy.

(7) ELECTRIC UTILITY- The term 'electric utility' means any person or State agency that delivers or sells electric energy at retail, including nonregulated utilities and utilities that are subject to State regulation and Federal power marketing administrations.

(8) EPA- The term 'EPA' means the Environmental Protection Agency.

(9) FEDERAL REBATE PROCESSING SYSTEM- The term 'Federal Rebate Processing System' means the Federal Rebate Processing System established under section 3(b).

(10) GOLD STAR HOME ENERGY RETROFIT PROGRAM- The term 'Gold Star Home Energy Retrofit Program' means the Gold Star Home Energy Retrofit Program established under section 8.

(11) HOME- The term 'home' means a principal residential dwelling unit in a building with no more than 4 dwelling units that--

(A) is located in the United States; and

(B) was constructed before the date of enactment of this Act.

(12) HOME STAR LOAN PROGRAM- The term 'Home Star loan program' means the Home Star energy efficiency loan program established under section 15(a).

(13) HOME STAR RETROFIT REBATE PROGRAM- The term 'Home Star Retrofit Rebate Program' means the Home Star Retrofit Rebate Program established under section 3(a).

(14) INDIAN TRIBE- The term 'Indian tribe' has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

(15) NATIONAL HOME PERFORMANCE COUNCIL- The term 'National Home Performance Council' means the National Home Performance Council, Inc.

(16) NATURAL GAS UTILITY- The term 'natural gas utility' means any person or State agency that transports, distributes, or sells natural gas at retail, including nonregulated utilities and utilities that are subject to State regulation.

(17) QUALIFIED CONTRACTOR- The term 'qualified contractor' means a residential energy efficiency contractor that meets minimum applicable requirements established under section 4.

(18) QUALITY ASSURANCE PROGRAM-

(A) IN GENERAL- The term 'quality assurance program' means a program established under this Act or recognized by the Secretary under this Act, to oversee the delivery of home efficiency retrofit programs to ensure that work is performed in accordance with standards and criteria established under this Act.

(B) INCLUSIONS- For purposes of subparagraph (A), delivery of retrofit programs includes delivery of quality assurance reviews of rebate applications and field inspections for a portion of customers receiving rebates and conducted by a quality assurance provider, with the consent of participating consumers and without delaying rebate payments to participating contractors.

(19) QUALITY ASSURANCE PROVIDER- The term 'quality assurance provider' means any entity that meets the minimum applicable requirements established under section 6.

(20) REBATE AGGREGATOR- The term 'rebate aggregator' means an entity that meets the requirements of section 5.

(21) RESNET- The term 'RESNET' means the Residential Energy Services Network, which is a nonprofit certification and standard setting organization for home energy raters that evaluate the energy performance of a home.

(22) SECRETARY- The term 'Secretary' means the Secretary of Energy.

(23) SILVER STAR HOME ENERGY RETROFIT PROGRAM- The term 'Silver Star Home Energy Retrofit Program' means the Silver Star Home Energy Retrofit Program established under section 7.

(24) STATE- The term 'State' means--

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

### **SEC. 3. HOME STAR RETROFIT REBATE PROGRAM.**

(a) In General- The Secretary shall establish the Home Star Retrofit Rebate Program.

(b) Federal Rebate Processing System-

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

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

(B) establish a national retrofit website that provides information on the Home Star Retrofit Rebate Program, including--

(i) how to determine whether particular efficiency measures are eligible for rebates; and

(ii) how to participate in the program; and

(C) make available, on a designated website, model forms for compliance with all applicable requirements of this Act, to be submitted by--

(i) each qualified contractor on completion of an eligible home energy retrofit; and

(ii) each quality assurance provider on completion of field verification.

(2) MODEL FORMS- In carrying out this section, the Secretary shall consider the model forms developed by the National Home Performance Council.

(c) Public Information Campaign- Not later than 60 days after the date of enactment of this Act, the Administrator shall develop and implement a public education campaign that describes, at a minimum--

- (1) the benefits of home energy retrofits;
- (2) the availability of rebates for--
  - (A) the installation of qualifying efficiency measures; and
  - (B) whole home efficiency improvements; and
- (3) the requirements for qualified contractors and accredited contractors.

#### **SEC. 4. CONTRACTORS.**

(a) Contractor Qualifications for Silver Star Home Energy Retrofit Program- A contractor may perform retrofit work under the Silver Star Home Energy Retrofit Program in a State for which rebates are provided under this Act only if the contractor meets or provides--

- (1) all applicable contractor licensing requirements established by the State or, if none exist at the State level, the Secretary;
- (2) insurance coverage of at least \$1,000,000 for general liability, and for such other purposes and in such other amounts as required by the State;
- (3) warranties to homeowners that completed work will--
  - (A) be free of significant defects;
  - (B) be installed in accordance with the specifications of the manufacturer; and
  - (C) perform properly for a period of at least 1 year after the date of completion of the work;
- (4) an agreement to provide the owner of a home, through a discount, the full economic value of all rebates received under this Act with respect to the home; and
- (5) an agreement to provide the homeowner, before a contract is executed between the contractor and a homeowner covering the eligible work, a notice of--
  - (A) the rebate amount the contractor intends to apply for with respect to eligible work under this Act; and
  - (B) the means by which the rebate will be passed through as a discount to the homeowner.

(b) Contractor Qualifications for Gold Star Home Energy Retrofit Program- A contractor may perform retrofit work under the Gold Star Home Energy Retrofit Program in a State for which rebates are provided under this Act only if the contractor--

- (1) meets the requirements for qualified contractors under subsection (a); and
- (2) is accredited--
  - (A) by the BPI; or
  - (B) under other standards approved by the Secretary, in consultation with the Administrator.

#### **SEC. 5. REBATE AGGREGATORS.**

(a) In General- The Secretary shall develop a network of rebate aggregators that can facilitate the delivery of rebates to participating contractors by--

- (1) reviewing the proposed rebate application for completeness and accuracy;
- (2) reviewing measures for eligibility in accordance with this Act;
- (3) providing data to the Federal Data Processing Center consistent with data protocols established by the Secretary; and
- (4) as soon as practicable but not later than 30 days after the date of receipt, distributing funds received from DOE to contractors, vendors, or other persons who have been approved for rebates by a quality assurance provider, if funding to contractors, vendors, or other persons is required by the Secretary.

(b) Eligibility- To be eligible to apply to the Secretary for approval as a rebate aggregator, an entity shall be--

- (1) a Home Performance with Energy Star partner;
- (2) an entity administering a residential energy efficiency retrofit program established or approved by a State;
- (3) a Federal Power Marketing Administration, an electric utility, or a natural gas utility that has--
  - (A) an approved residential energy efficiency retrofit program; and
  - (B) an established quality assurance provider network; or
- (4) an entity that demonstrates to the Secretary that the entity can perform the functions of an rebate aggregator, without disrupting existing residential retrofits in the States that are incorporating the Home Star Program, including demonstration of--
  - (A) corporate status or status as a State or local government;
  - (B) the capability to provide electronic data to the Federal Rebate Processing System;
  - (C) a financial system that is capable of tracking the distribution of rebates to participating contractors; and
  - (D) coordination and cooperation by the entity with the appropriate State energy office regarding participation in the existing energy efficiency programs that will be delivering the Home Star Program.

(c) Public Utility Commission Efficiency Targets- The Secretary shall--

- (1) develop guidelines for States to use to allow utilities participating as rebate aggregators to count the energy savings from the participation of the utilities toward State-level energy savings targets; and
- (2) work with States to assist in the adoption of the guidelines for the purposes and duration of the Home Star Retrofit Rebate Program.

## **SEC. 6. QUALITY ASSURANCE PROVIDERS.**

(a) In General- An entity shall be considered a quality assurance provider under this Act if the entity--

- (1) is independent of the contractor;
- (2) confirms the qualifications of contractors or installers of home energy efficiency retrofits;
- (3) confirms compliance with the requirements of a 'certified workforce'; and

(4) performs field inspections and other measures required to confirm the compliance of the retrofit work under the Silver Star program, and the retrofit work and the simulated energy savings under the Gold Star program, based on the requirements of this Act.

(b) Inclusions- An entity shall be considered a quality assurance provider under this Act if the entity is qualified through--

(1) the International Code Council;

(2) the BPI;

(3) the RESNET;

(4) a State;

(5) a State-approved residential energy efficiency retrofit program; or

(6) any other entity designated by the Secretary, in consultation with the Administrator.

## **SEC. 7. SILVER STAR HOME ENERGY RETROFIT PROGRAM.**

(a) In General- If the energy efficiency retrofit of a home is carried out after the date of enactment of this Act in accordance with this section, a rebate shall be awarded for the energy retrofit of a home for the installation of energy savings measures--

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

(2) installed in the home by a qualified contractor not later than 1 year after the date of enactment of this Act;

(3) carried out in compliance with this section; and

(4) subject to the maximum amount limitations established under subsection (d)(4).

(b) Energy Savings Measures- Subject to subsection (c), a rebate shall be awarded under this section for the installation of the following energy savings measures for a home energy retrofit that meet technical standards established under this section:

(1) Whole house air-sealing measures, in accordance with BPI standards or other procedures approved by the Secretary.

(2) Attic insulation measures that--

(A) include sealing of air leakage between the attic and the conditioned space, in accordance with BPI standards or the attic portions of the DOE or EPA thermal bypass checklist or other procedures approved by the Secretary;

(B) add at least R-19 insulation to existing insulation;

(C) result in at least R-38 insulation in DOE climate zones 1 through 4 and at least R-49 insulation in DOE climate zones 5 through 8, including existing insulation, within the limits of structural capacity; and

(D) cover at least--

(i) 100 percent of an accessible attic; or

(ii) 75 percent of a total conditioned space floor area.

(3) Duct seal or replacement that--

(A) is installed in accordance with BPI standards or other procedures approved by the Secretary; and

(B) in the case of duct replacement, replaces at least 50 percent of a distribution system of the home.

(4) Wall insulation that--

(A) is installed in accordance with BPI standards or other procedures approved by the Secretary;

(B) is to full-stud thickness; and

(C) covers at least 75 percent of the total external wall area of the home.

(5) Crawl space insulation or basement wall and rim joist insulation that is installed in accordance with BPI standards or other procedures approved by the Secretary--

(A) covers at least 500 square feet of crawl space or basement wall and adds at least--

(i) R-19 of cavity insulation or R-15 of continuous insulation to existing crawl space insulation; or

(ii) R-13 of cavity insulation or R-10 of continuous insulation to basement walls; and

(B) fully covers the rim joist with at least R-10 of new continuous or R-13 of cavity insulation.

(6) Window replacement that replaces at least 8 exterior windows or skylights, or 75 percent of the exterior windows and skylights in a home, whichever is less, with windows or skylights that--

(A) are certified by the National Fenestration Rating Council; and

(B) comply with criteria applicable to windows and skylights under section 25(c) of the Internal Revenue Code of 1986.

(7) Door replacement that replaces at least 1 exterior door with doors that comply with criteria applicable to doors under section 25(c) of the Internal Revenue Code of 1986.

(8)(A) Heating system replacement with--

(i) a natural gas or propane furnace with an AFUE rating of 92 or greater;

(ii) a natural gas or propane boiler with an AFUE rating of 90 or greater;

(iii) an oil furnace with an AFUE rating of 86 or greater and that uses an electrically commutated blower motor;

(iv) an oil boiler with an AFUE rating of 86 or greater and that has temperature reset or thermal purge controls; or

(v) a wood or wood pellet furnace, boiler, or stove, if--

(l) the new system--

(aa) meets at least 75 percent of the heating demands of the home;

(bb) has a distribution system (such as ducts or vents) that allows heat to reach all or most parts of the home; and

(cc) in the case of a wood stove, replaces an existing wood stove; and

(II) an independent test laboratory approved by the Secretary certifies that the new system--

(aa) has thermal efficiency (with a lower heating value) of at least 75 percent for stoves and 80 percent for furnaces and boilers; and

(bb) has particulate emissions of less than 4.5 grams per hour for stoves.

(B) A rebate may be provided under this section for the replacement of a furnace or boiler described in clauses (i) through (iv) of subparagraph (A) only if the new furnace or boiler is installed in accordance with ANSI/ACCA Standard 5 QI-2007.

(9) Air-conditioner or heat-pump replacement with a new unit that--

(A) is installed in accordance with ANSI/ACCA Standard 5 QI-2007; and

(B) meets or exceeds--

(i) in the case of an air-source conditioner, SEER 16 and EER 13;

(ii) in the case of an air-source heat pump, SEER 15, EER 12.5, and HSPF 8.5; and

(iii) in the case of a geothermal heat pump, Energy Star tier 2 efficiency requirements.

(10) Replacement of or with--

(A) a natural gas or propane water heater with a condensing storage water heater with an energy factor of 0.80 or more or a thermal efficiency of 90 percent or more;

(B) a tankless natural gas or propane water heater with an energy factor of at least .82;

(C) a natural gas or propane storage water heater with an energy factor of at least .67;

(D) an indirect water heater with an insulated storage tank that--

(i) has a storage capacity of at least 30 gallons and is insulated to at least R-16; and

(ii) is installed in conjunction with a qualifying boiler described in paragraph (7);

(E) an electric water heater with an energy factor of 2.0 or more;

(F) a water heater with a solar hot water system that--

(i) is certified by the Solar Rating and Certification Corporation; or

(ii) meets technical standards established by the State of Hawaii; or

(G) a water heater installed in conjunction with a qualifying geothermal heat pump described in paragraph (9) that provides domestic water heating through the use of--

(i) year-round demand water heating capability; or

(ii) a desuperheater.

(11) Storm windows that--

- (A) are installed on a least 5 single-glazed windows that do not have storm windows;
- (B) are installed in a home listed on or eligible for listing in the National Register of Historic Places; and
- (C) comply with any procedures that the Secretary may establish for storm windows (including installation).

(c) Installation Costs- Measures described in paragraphs (1) through (11) of subsection (b) shall include expenditures for labor and other installation-related costs (including venting system modification and condensate disposal) properly allocable to the onsite preparation, assembly, or original installation of the component.

(d) Amount of Rebate-

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

(2) HIGHER REBATE AMOUNT- Except as provided in paragraph (4), the amount of a rebate provided to the owner of a home or designee under this section shall be \$1,500 per measure for--

- (A) attic insulation and air sealing described in subsection (b)(2);
- (B) wall insulation described in subsection (b)(4);
- (C) windows or skylights described in subsection (b)(6);
- (D) a heating system described in subsection (b)(8); and
- (E) an air-conditioner or heat-pump replacement described in subsection (b)(9).

(3) LOWER REBATE AMOUNT- Except as provided in paragraph (4), the amount of a rebate provided under this section shall be--

- (A) \$125 per door for the installation of up to a maximum of 2 Energy Star doors described in subsection (b)(7) for each home;
- (B) \$250 for a maximum of 1 natural gas or propane storage water heater described in subsection (b)(10)(C) for each home;
- (C) \$250 for rim joist insulation described in subsection (b)(5)(B);
- (D) \$50 for each storm window described in subsection (b)(11); and
- (E) \$500 for a desuperheater described in subsection (b)(10)(G)(ii).

(4) MAXIMUM AMOUNT- The total amount of a rebate provided to the owner of a home or designee under this section shall not exceed the lower of--

- (A) \$3,000;
- (B) the sum of the amounts per measure specified in paragraphs (1) through (3);

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

(D) the reduction in the price paid by the owner of the home, relative to the price of the installed measures in the absence of the Silver Star Home Energy Retrofit Program.

(e) Insulation Products Purchased Without Installation Services- A rebate shall be awarded under this section for attic, wall, or crawl space insulation or air sealing product if--

(1) the product--

(A) qualifies for a credit under section 25C of the Internal Revenue Code of 1986 but is not the subject of a claim for the credit;

(B) is purchased by a homeowner for installation by the homeowner in a home identified by the address of the homeowner;

(C) is identified and attributed to a specific home in a submission by the vendor to a rebate aggregator; and

(D) is not part of--

(i) an energy savings measure described in paragraphs (1) through (5) of subsection (b); and

(ii) a retrofit for which a rebate is provided under the Gold Star Home Energy Retrofit Program; or

(2) educational material on proper installation of the product is provided to the homeowner, including material on air sealing while insulating.

(f) Qualification for Rebate Under Silver Star Home Energy Retrofit Program- On submission of a claim by a rebate aggregator to the system established under section 5, the Secretary shall provide reimbursement to the rebate aggregator for reduced-cost energy-efficiency measures installed in a home, if--

(1) the measures undertaken for the retrofit are--

(A) eligible measures described on the list established under subsection (b);

(B) installed properly in accordance with applicable technical specifications; and

(C) installed by a qualified contractor;

(2) the amount of the rebate does not exceed the maximum amount described in subsection (d)(4);

(3) not less than--

(A) 20 percent of the retrofits performed by each qualified contractor under this section are randomly subject to a third-party field verification of all work associated with the retrofit by a quality assurance provider; or

(B) in the case of qualified contractor that uses a certified workforce, 10 percent of the retrofits performed under this section are randomly subject to a third-party field verification of all work associated with the retrofit by a quality assurance provider; and

(4)(A) the installed measures will be brought into compliance with the specifications and quality standards for the Home Star Retrofit Rebate Program, by the installing qualified contractor, at no additional cost to the homeowner, not later than 14 days after the date of notification of a defect, if a field verification by a quality assurance provider finds that corrective work is needed;

(B) a subsequent quality assurance visit is conducted to evaluate the remedy not later than 7 days after notification by the contractor that the defect has been corrected; and

(C) notification of disposition of the visit occurs not later than 7 days after the date of that visit.

(g) Homeowner Complaints-

(1) IN GENERAL- During the 1-year warranty period, a homeowner may make a complaint under the quality assurance program that compliance with the quality assurance requirements of this section has not been achieved.

(2) VERIFICATION-

(A) IN GENERAL- The quality assurance program shall provide that, on receiving a complaint under paragraph (1), an independent quality assurance provider shall conduct field verification on the retrofit work performed by the contractor.

(B) ADMINISTRATION- A verification under this paragraph shall be--

(i) in addition to verifications conducted under subsection (f)(3); and

(ii) corrected in accordance with subsection (f)(4).

(h) Audits-

(1) IN GENERAL- On making payment for a submission under this section, the Secretary shall review rebate requests to determine whether program requirements were met in all respects.

(2) INCORRECT PAYMENT- On a determination of the Secretary under paragraph (1) that a payment was made incorrectly to a party, the Secretary may--

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

(B) withhold the amount of the incorrect payment from the next payment made to the party pursuant to a subsequent request.

## **SEC. 8. GOLD STAR HOME ENERGY RETROFIT PROGRAM.**

(a) In General- If the energy efficiency retrofit of a home is carried out after the date of enactment of this Act by an accredited contractor in accordance with this section, a rebate shall be awarded for retrofits that achieve whole home energy savings.

(b) Amount of Grant- Subject to subsection (e), the amount of a rebate provided to the owner of a home or a designee of the owner under this section shall be--

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

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

(A) \$8,000; or

(B) 50 percent of the total retrofit cost (including the cost of audit and diagnostic procedures).

(c) Energy Savings-

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

(2) DOCUMENTATION- The percent improvement in energy consumption under this section shall be documented through--

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

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

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

(ii) an equivalent performance test established by the Secretary; or

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

(iv) a HERS rating system required by State law.

(3) MONITORING- The Secretary--

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

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

(4) ASSUMPTIONS AND TESTING- The Secretary may--

(A) establish simulation tool assumptions for the establishment of the pre-retrofit energy use;

(B) require compliance with software performance tests covering--

(i) mechanical system performance;

(ii) duct distribution system efficiency;

(iii) hot water performance; or

(iv) other measures; and

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

(5) RECOMMENDED MEASURES- The simulation tool shall have the ability at a minimum to assess the savings associated with all the measures for which incentives are specifically provided under the Silver Star Home Energy Retrofit Program.

(d) Qualification for Rebate Under Gold Star Home Energy Retrofit Program- On submission of a claim by a rebate aggregator to the system established under section 5, the Secretary shall provide reimbursement to the rebate aggregator for reduced-cost whole-home retrofits, if--

(1) the retrofit is performed by an accredited contractor;

(2) the amount of the reimbursement is not more than the amount described in subsection (b);

(3) documentation described in subsection (c) is transmitted with the claim;

(4) a home receiving a whole-home retrofit is subject to random third-party field verification by a quality assurance provider in accordance with subsection (e); and

(5)(A) the installed measures will be brought into compliance with the specifications and quality standards for the Home Star Retrofit Rebate Program, by the installing qualified contractor, at no additional cost to the homeowner, not later than 14 days after the date of notification of a defect if a field verification by a quality assurance provider finds that corrective work is needed;

(B) a subsequent quality assurance visit is conducted to evaluate the remedy not later than 7 days after notification by the contractor that the defect has been corrected; and

(C) notification of disposition of the visit occurs not later than 7 days after the date of that visit.

(e) Verification-

(1) IN GENERAL- Subject to subparagraph (2), all work installed in a home receiving a whole-home retrofit by an accredited contractor under this section shall be subject to random third-party field verification by a quality assurance provider at a rate of--

(A) 15 percent; or

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

(2) VERIFICATION NOT REQUIRED- A home shall not be subject to random third-party field verification under this section if--

(A) a post-retrofit home energy rating is conducted by an eligible certifier in accordance with--

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

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

(iii) a HERS rating system required by State law;

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

(C) the rating includes field verification of measures.

(f) Homeowner Complaints-

(1) IN GENERAL- A homeowner may make a complaint under the quality assurance program during the 1-year warranty period that compliance with the quality assurance requirements of this section has not been achieved.

(2) VERIFICATION-

(A) IN GENERAL- The quality assurance program shall provide that, on receiving a complaint under paragraph (1), an independent quality assurance provider shall conduct field verification on the retrofit work performed by the contractor.

(B) ADMINISTRATION- A verification under this paragraph shall be--

(i) in addition to verifications conducted under subsection (e)(1); and

(ii) corrected in accordance with subsection (e).

(g) Audits-

(1) IN GENERAL- On making payment for a submission under this section, the Secretary shall review rebate requests to determine whether program requirements were met in all respects.

(2) INCORRECT PAYMENT- On a determination of the Secretary under paragraph (1) that a payment was made incorrectly to a party, the Secretary may--

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

(B) withhold the amount of the incorrect payment from the next payment made to the party pursuant to a subsequent request.

## **SEC. 9. GRANTS TO STATES AND INDIAN TRIBES.**

(a) In General- A State or Indian tribe that receives a grant under subsection (d) shall use the grant for--

(1) administrative costs;

(2) oversight of quality assurance plans;

(3) development of ongoing quality assurance framework;

(4) establishment and delivery of financing pilots in accordance with this Act;

(5) coordination with existing residential retrofit programs and infrastructure development to assist deployment of the Home Star program; and

(6) the costs of carrying out the responsibilities of the State or Indian tribe under the Silver Star Home Energy Retrofit Program and the Gold Star Home Energy Retrofit Program.

(b) Initial Grants- Not later than 30 days after the date of enactment of this Act, the Secretary shall make the initial grants available under this section.

(c) Indian Tribes- The Secretary shall reserve an appropriate amount of funding to be made available to carry out this section for each fiscal year to make grants available to Indian tribes under this section.

(d) State Allotments- From the amounts made available to carry out this section for each fiscal year remaining after the reservation required under subsection (c), the Secretary shall make grants available to States in accordance with section 16.

(e) Quality Assurance Programs-

(1) IN GENERAL- A State or Indian tribe may use a grant made under this section to carry out a quality assurance program that is--

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

(B) managed by the office or the designee of the office that is--

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

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

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

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

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

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

(f) Implementation- A State or Indian tribe that receives a grant under this section may implement a quality assurance program through the State, the Indian tribe, or a third party designated by the State or Indian tribe, including--

(1) an energy service company;

(2) an electric utility;

(3) a natural gas utility;

(4) a third-party administrator designated by the State or Indian tribe; or

(5) a unit of local government.

(g) Public-Private Partnerships- A State or Indian tribe that receives a grant under this section are encouraged to form partnerships with utilities, energy service companies, and other entities--

(1) to assist in marketing a program;

(2) to facilitate consumer financing;

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

(4) to assist in implementing quality assurance programs.

(h) Coordination of Rebate and Existing State-Sponsored Programs-

(1) IN GENERAL- A State or Indian tribe shall, to the maximum extent practicable, prevent duplication through coordination of a program authorized under this Act with--

(A) the Energy Star appliance rebates program authorized under the American Recovery and Reinvestment Act of 2009 (Public Law 111-5; 123 Stat. 115); and

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

(2) EXISTING PROGRAMS- In carrying out this subsection, a State or Indian tribe shall--

(A) give priority to--

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

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

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

## **SEC. 10. QUALITY ASSURANCE FRAMEWORK.**

(a) In General- Not later than 180 days after the date that the Secretary initially provides funds to a State under this Act, the State shall submit to the Secretary a plan to implement a quality assurance program that covers all federally assisted residential efficiency retrofit work administered, supervised, or sponsored by the State.

(b) Implementation- The State shall--

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

(2) implement the quality assurance framework not later than 1 year after the date of enactment of this Act.

(c) Components- The quality assurance framework established under this section shall include--

(1) a requirement that contractors be prequalified in order to be authorized to perform federally assisted residential retrofit work;

(2) maintenance of a list of prequalified contractors authorized to perform federally assisted residential retrofit work; and

(3) minimum standards for prequalified contractors that include--

(A) accreditation;

(B) legal compliance procedures;

(C) proper classification of employees;

(D) use of a certified workforce; and

(E) maintenance of records needed to verify compliance;

(4) targets and realistic plans for--

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

(B) the employment of graduates of training programs that primarily serve low-income populations with a median income that is below 200 percent of the poverty line (as defined in section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2), including any revision required by that section)) by participating contractors; and

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

(d) Noncompliance- If the Secretary determines that a State has not taken the steps required under this section, the Secretary shall provide to the State a period of at least 90 days to comply before suspending the participation of the State in the program.

## **SEC. 11. REPORT.**

(a) In General- Not later than 1 year after the date of enactment of this Act, the Secretary shall submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Energy and Commerce of the House of Representatives a report on the use of funds under this Act.

(b) Contents- The report shall include a description of--

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

(c) Noncompliance- If the Secretary determines that a rebate aggregator, State, or Indian tribe has not provided the information required under this section, the Secretary shall provide to the rebate aggregator, State, or Indian tribe a period of at least 90 days to provide any necessary information, subject to penalties imposed by the Secretary for entities other than States and Indian tribes, which may include withholding of funds or reduction of future grant amounts.

## **SEC. 12. ADMINISTRATION.**

(a) In General- Subject to section 16(b), not later than 30 days after the date of enactment of this Act, the Secretary shall provide such administrative and technical support to rebate aggregators, States, and Indian tribes as is necessary to carry out the functions designated to States under this Act.

(b) Appointment of Personnel- Notwithstanding the provisions of title 5, United States Code, governing appointments in the competitive service and General Schedule classifications and pay rates, the Secretary may appoint such professional and administrative personnel as the Secretary considers necessary to carry out this Act.

(c) Rate of Pay- The rate of pay for a person appointed under subsection (a) shall not exceed the maximum rate payable for GS-15 of the General Schedule under chapter 53 of title 5, United States Code.

(d) Consultants- Notwithstanding section 303 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253), the Secretary may retain such consultants on a noncompetitive basis as the Secretary considers necessary to carry out this Act.

(e) Contracting- In carrying out this Act, the Secretary may waive all or part of any provision of the Competition in Contracting Act of 1984 (Public Law 98-369; 98 Stat. 1175), an amendment made by that Act, or the Federal Acquisition Regulation on a determination that circumstances make compliance with the provisions contrary to the public interest.

(f) Regulations-

(1) IN GENERAL- Notwithstanding section 553 of title 5, United States Code, the Secretary may issue regulations that the Secretary, in the sole discretion of the Secretary, determines necessary to carry out the Home Star Retrofit Rebate Program.

(2) DEADLINE- If the Secretary determines that regulations described in paragraph (1) are necessary, the regulations shall be issued not later than 60 days after the date of the enactment of this Act.

(g) Information Collection- Chapter 35 of title 44, United States Code, shall not apply to any information collection requirement necessary for the implementation of the Home Star Retrofit Rebate Program.

(h) Adjustment of Rebate Amounts- Effective beginning on the date that is 180 days after the date of enactment of this Act, the Secretary may adjust the rebate amounts provided in this section based on--

- (1) the use of the Silver Star Home Energy Retrofit Program and the Gold Star Home Energy Retrofit Program; and
- (2) other program data.

### **SEC. 13. TREATMENT OF REBATES.**

(a) In General- For purposes of the Internal Revenue Code of 1986, rebates received for eligible measures under this Act--

- (1) shall not be considered taxable income to a homeowner;
- (2) shall prohibit the consumer from applying for a tax credit allowed under section 25C or 25D of that Code for the same eligible measures performed in the home of the homeowner; and
- (3) shall be considered a credit allowed under section 25C or 25D of that Code for purposes of any limitation on the amount of the credit under that section.

(b) Notice-

- (1) IN GENERAL- A participating contractor shall provide notice to a homeowner of the provisions of subsection (a) before eligible work is performed in the home of the homeowner.
- (2) NOTICE IN REBATE FORM- A homeowner shall be notified of the provisions of subsection (a) in the appropriate rebate form developed by the Secretary, in consultation with the Secretary of the Treasury.
- (3) AVAILABILITY OF REBATE FORM- A participating contractor shall obtain the rebate form on a designated website in accordance with section 3(b)(1)(C).

### **SEC. 14. PENALTIES.**

(a) In General- It shall be unlawful for any person to violate this title (including any regulation issued under this Act), other than a violation as the result of a clerical error.

(b) Civil Penalty- Any person who commits a violation of this Act shall be liable to the United States for a civil penalty in an amount that is not more than the higher of--

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

(c) Administration- The Secretary may--

- (1) assess and compromise a penalty imposed under subsection (b); and
- (2) require from any entity the records and inspections necessary to enforce this Act.

(d) Fraud- In addition to any civil penalty, any person who commits a fraudulent violation of this Act shall be subject to criminal prosecution.

## SEC. 15. HOME STAR ENERGY EFFICIENCY LOAN PROGRAM.

(a) Definitions- In this section:

(1) ELIGIBLE PARTICIPANT- The term 'eligible participant' means a homeowner who receives financial assistance from a qualified financing entity to carry out energy efficiency or renewable energy improvements to an existing home or other residential building of the homeowner in accordance with the Gold Star Home Energy Retrofit Program or the Silver Star Home Energy Retrofit Program.

(2) PROGRAM- The term 'program' means the Home Star Energy Efficiency Loan Program established under subsection (b).

(3) QUALIFIED FINANCING ENTITY- The term 'qualified financing entity' means a State, political subdivision of a State, tribal government, electric utility, natural gas utility, nonprofit or community-based organization, energy service company, retailer, or any other qualified entity that--

(A) meets the eligibility requirements of this section; and

(B) is designated by the Governor of a State in accordance with subsection (e).

(4) QUALIFIED LOAN PROGRAM MECHANISM- The term 'qualified loan program mechanism' means a loan program that is--

(A) administered by a qualified financing entity; and

(B) principally funded--

(i) by funds provided by or overseen by a State; or

(ii) through the energy loan program of the Federal National Mortgage Association.

(b) Establishment- The Secretary shall establish a Home Star Energy Efficiency Loan Program under which the Secretary shall make funds available to States to support financial assistance provided by qualified financing entities for making, to existing homes, energy efficiency improvements that qualify under the Gold Star Home Energy Retrofit Program or the Silver Star Home Energy Retrofit Program.

(c) Eligibility of Qualified Financing Entities- To be eligible to participate in the program, a qualified financing entity shall--

(1) offer a financing product under which eligible participants may pay over time for the cost to the eligible participant (after all applicable Federal, State, local, and other rebates or incentives are applied) of making improvements described in subsection (b);

(2) require all financed improvements to be performed by contractors in a manner that meets minimum standards that are at least as stringent as the standards provided under sections 7 and 8; and

(3) establish standard underwriting criteria to determine the eligibility of program applicants, which criteria shall be consistent with--

(A) with respect to unsecured consumer loan programs, standard underwriting criteria used under the energy loan program of the Federal National Mortgage Association; or

(B) with respect to secured loans or other forms of financial assistance, commercially recognized best practices applicable to the form of financial assistance being provided (as determined by the designated entity administering the program in the State).

(d) Allocation- In making funds available to States for each fiscal year under this section, the Secretary shall use the formula used to allocate funds to States to carry out State energy conservation plans established under part D of title III of the Energy Policy and Conservation Act (42 U.S.C. 6321 et seq.).

(e) Qualified Financing Entities- Before making funds available to a State under this section, the Secretary shall require the Governor of the State to provide to the Secretary a letter of assurance that the State--

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

(2) has established a qualified loan program mechanism that--

(A) includes a methodology to ensure credible energy savings or renewable energy generation;

(B) incorporates an effective repayment mechanism, which may include--

(i) on-utility-bill repayment;

(ii) tax assessment or other form of property assessment financing;

(iii) municipal service charges;

(iv) energy or energy efficiency services contracts;

(v) energy efficiency power purchase agreements;

(vi) unsecured loans applying the underwriting requirements of the energy loan program of the Federal National Mortgage Association; or

(vii) alternative contractual repayment mechanisms that have been demonstrated to have appropriate risk mitigation features; and

(C) will provide, in a timely manner, all information regarding the administration of the program as the Secretary may require to permit the Secretary to meet the reporting requirements of subsection (h).

(f) Use of Funds- Funds made available to States under the program may be used to support financing products offered by qualified financing entities to eligible participants for eligible energy efficiency work, by providing--

(1) interest rate reductions;

(2) loan loss reserves or other forms of credit enhancement;

(3) revolving loan funds from which qualified financing entities may offer direct loans; or

(4) other debt instruments or financial products necessary--

(A) to maximize leverage provided through available funds; and

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

(g) Use of Repayment Funds- In the case of a revolving loan fund established by a State described in subsection (f)(3), a qualified financing entity may use funds repaid by eligible participants under the program to provide financial assistance for additional eligible participants to make improvements described in subsection (b) in a manner that is consistent with this section or other such criteria as are prescribed by the State.

(h) Program Evaluation- Not later than 1 year after the date of enactment of this Act, the Secretary shall submit to Congress a program evaluation that describes--

- (1) how many eligible participants have participated in the program;
- (2) how many jobs have been created through the program, directly and indirectly;
- (3) what steps could be taken to promote further deployment of energy efficiency and renewable energy retrofits;
- (4) the quantity of verifiable energy savings, homeowner energy bill savings, and other benefits of the program; and
- (5) the performance of the programs carried out by qualified financing entities under this section, including information on the rate of default and repayment.

(i) Credit Support- Section 1705(a) of the Energy Policy Act of 2005 (42 U.S.C. 16516(a)) is amended by adding at the end the following:

‘(4) Energy efficiency projects, including projects to retrofit residential, commercial, and industrial buildings, facilities, and equipment.’.

## **SEC. 16. FUNDING.**

(a) Authorization of Appropriations-

(1) IN GENERAL- Subject to subsection (j), there is authorized to be appropriated to carry out this title \$6,000,000,000 for the period of each of fiscal years 2010 through 2012 to remain available until expended.

(2) MAINTENANCE OF FUNDING- Funds provided under this section shall supplement and not supplant any Federal and State funding provided to carry out energy efficiency programs in existence on the date of enactment of this Act.

(b) Grants to States-

(1) IN GENERAL- Of the amount provided under subsection (a), \$380,000,000 or not more than 6 percent, whichever is less, shall be used to carry out section 9.

(2) DISTRIBUTION TO STATE ENERGY OFFICES-

(A) IN GENERAL- Not later than 30 days after the date of enactment of this Act, the Secretary shall--

(i) provide to State energy offices 25 percent of the funds described in paragraph (1); and

(ii) determine a formula to provide the balance of funds to State energy offices through a performance-based system.

(B) ALLOCATION-

(i) ALLOCATION FORMULA- Funds described in subparagraph (A)(i) shall be made available in accordance with the allocation formula for State energy conservation plans established under part D of title III of the Energy Policy and Conservation Act (42 U.S.C. 6321 et seq.).

(ii) PERFORMANCE-BASED SYSTEM- The balance of the funds described in subparagraph (A)(ii) shall be made available in accordance with the performance-based system described in subparagraph (A)(ii).

(c) Quality Assurance Costs-

(1) IN GENERAL- Of the amount provided under subsection (a), not more than 5 percent shall be used to carry out the quality assurance provisions of this Act.

(2) MANAGEMENT- Funds provided under this subsection shall be overseen by--

(A) State energy offices described in subsection (b)(2); or

(B) other entities determined by the Secretary to be eligible to carry out quality assurance functions under this Act.

(3) DISTRIBUTION TO QUALITY ASSURANCE PROVIDERS OR REBATE AGGREGATORS- The Secretary shall use funds provided under this subsection to compensate quality assurance providers, or rebate aggregators, for services under the Silver Star Home Energy Retrofit Program or the Gold Star Home Energy Retrofit Program through the Federal Rebate Processing Center based on the services provided to contractors under a quality assurance program and rebate aggregation.

(4) INCENTIVES- The amount of incentives provided to quality assurance providers or rebate aggregators shall be--

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

(I) \$25 per rebate review and submission provided under the program; and

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

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

(I) \$35 for each rebate review and submission provided under the program; and

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

(B) such other amounts as the Secretary considers necessary to carry out the quality assurance provisions of this Act.

(d) Tracking of Rebates and Expenditures- Of the amount provided under subsection (a), not more than \$150,000,000 shall be used for costs associated with database systems to track rebates and expenditures under this Act and related administrative costs incurred by the Secretary.

(e) Public Education and Coordination- Of the amount provided under subsection (a), not more than \$10,000,000 shall be used for costs associated with public education and coordination with the Federal Energy Star program incurred by the Administrator.

(f) Indian Tribes- Of the amount provided under subsection (a), the Secretary shall reserve not more than 3 percent to make grants available to Indian tribes under this section.

(g) Silver Star Home Energy Retrofit Program- In the case of the Silver Star Home Energy Retrofit Program, of the amount provided under subsection (a) after funds are provided in accordance with subsections (b) through (e), \$3,417,000,000 for the 1-year period beginning on the date of enactment of this Act (less any amounts required under subsection (f)) shall be used by the Secretary to provide rebates and incentives authorized under the Silver Star Home Energy Retrofit Program.

(h) Gold Star Home Energy Retrofit Program- In the case of the Gold Star Home Energy Retrofit Program, of the amount provided under subsection (a) after funds are provided in accordance with subsections (b) through (e), \$1,683,000 for the 2-year period beginning on the date of enactment of this Act (less any amounts required under subsection (f)) shall be used by the Secretary to provide rebates and incentives authorized under the Gold Star Home Energy Retrofit Program.

(i) Program Review and Backstop Funding-

(1) IN GENERAL- Not later than 180 days after the date of enactment of this Act, the Secretary shall perform a State-by-State analysis and review the distribution of Home Star retrofit rebates under this Act.

(2) ADJUSTMENT- The Secretary may allocate technical assistance funding to assist States that have not sufficiently benefitted from the Home Star Retrofit Rebate Program.

(j) Return of Undisbursed Funds-

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

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

(k) Financing- Of the amounts allocated to the States under subsection (b), not less than \$200,000,000 shall be used to carry out the financing provisions of this Act in accordance with section 15.