

111TH CONGRESS
2D SESSION

S. 3434

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

IN THE SENATE OF THE UNITED STATES

MAY 27 (legislative day, MAY 26), 2010

Mr. BINGAMAN (for himself, Mr. WARNER, Mr. GRAHAM, Ms. SNOWE, Mr. MERKLEY, Mr. BROWN of Massachusetts, Ms. STABENOW, Mr. SANDERS, Mr. DODD, Mrs. GILLIBRAND, Mr. CARPER, Mr. PRYOR, Mr. BEGICH, Ms. KLOBUCHAR, Ms. CANTWELL, and Mr. HARKIN) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

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

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

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Home Star Energy Retrofit Act of 2010”.

6 (b) TABLE OF CONTENTS.—The table of contents of
7 this Act is as follows:

Sec. 1. Short title; table of contents.

- Sec. 101. Definitions.
- Sec. 102. Home Star Retrofit Rebate Program.
- Sec. 103. Contractors.
- Sec. 104. Rebate aggregators.
- Sec. 105. Quality assurance providers.
- Sec. 106. Silver Star Home Energy Retrofit Program.
- Sec. 107. Gold Star Home Energy Retrofit Program.
- Sec. 108. Grants to States and Indian tribes.
- Sec. 109. Quality assurance framework.
- Sec. 110. Report.
- Sec. 111. Administration.
- Sec. 112. Treatment of rebates.
- Sec. 113. Penalties.
- Sec. 114. Home Star Energy Efficiency Loan Program.
- Sec. 115. Funding.

TITLE II—PERFORMANCE BASED ENERGY IMPROVEMENT TAX
CREDITS

- Sec. 201. Performance based energy improvements for nonbusiness property.

1 **TITLE I—HOME STAR ENERGY**
2 **RETROFITS**

3 **SEC. 101. DEFINITIONS.**

4 In this title:

5 (1) ACCREDITED CONTRACTOR.—The term “ac-
6 credited contractor” means a residential energy effi-
7 ciency contractor that meets the minimum applicable
8 requirements established under section 103.

9 (2) ADMINISTRATOR.—The term “Adminis-
10 trator” means the Administrator of the Environ-
11 mental Protection Agency.

12 (3) BPI.—The term “BPI” means the Building
13 Performance Institute.

14 (4) CERTIFIED WORKFORCE.—The term “cer-
15 tified workforce” means a residential energy effi-
16 ciency construction workforce that is entirely cer-

1 tified in the appropriate job skills for all employees
2 performing installation work under—

3 (A) an applicable third party skills stand-
4 ard established—

5 (i) by the BPI;

6 (ii) by the North American Technician
7 Excellence;

8 (iii) by the Laborers' International
9 Union of North America; or

10 (iv) in the State in which the work is
11 to be performed, pursuant to a program
12 operated by the Home Builders Institute in
13 connection with Ferris State University, to
14 be effective beginning on the date that is
15 30 days after the date notice is provided
16 by those organizations to the Secretary
17 that the program has been established in
18 the State unless the Secretary determines,
19 not later than 30 days after the date of the
20 notice, that the standard or certification is
21 incomplete; or

22 (B) other standards approved by the Sec-
23 retary, in consultation with the Secretary of
24 Labor and the Administrator.

1 (5) **CONDITIONED SPACE.**—The term “condi-
2 tioned space” means the area of a home that is—

3 (A) intended for habitation; and

4 (B) intentionally heated or cooled.

5 (6) **DOE.**—The term “DOE” means the De-
6 partment of Energy.

7 (7) **ELECTRIC UTILITY.**—The term “electric
8 utility” means any person or State agency that de-
9 livers or sells electric energy at retail, including non-
10 regulated utilities and utilities that are subject to
11 State regulation and Federal power marketing ad-
12 ministrations.

13 (8) **EPA.**—The term “EPA” means the Envi-
14 ronmental Protection Agency.

15 (9) **FEDERAL REBATE PROCESSING SYSTEM.**—
16 The term “Federal Rebate Processing System”
17 means the Federal Rebate Processing System estab-
18 lished under section 102(b).

19 (10) **GOLD STAR HOME ENERGY RETROFIT PRO-**
20 **GRAM.**—The term “Gold Star Home Energy Retrofit
21 Program” means the Gold Star Home Energy Ret-
22 rofit Program established under section 107.

23 (11) **HOME.**—The term “home” means a prin-
24 cipal residential dwelling unit in a building with no
25 more than 4 dwelling units that—

1 (A) is located in the United States; and

2 (B) was constructed before the date of en-
3 actment of this Act.

4 (12) HOMEOWNER.—The term “homeowner”
5 means the resident or non-resident owner of record
6 of a home.

7 (13) HOME STAR LOAN PROGRAM.—The term
8 “Home Star loan program” means the Home Star
9 energy efficiency loan program established under
10 section 114(a).

11 (14) HOME STAR RETROFIT REBATE PRO-
12 GRAM.—The term “Home Star Retrofit Rebate Pro-
13 gram” means the Home Star Retrofit Rebate Pro-
14 gram established under section 102(a).

15 (15) INDIAN TRIBE.—The term “Indian tribe”
16 has the meaning given the term in section 4 of the
17 Indian Self-Determination and Education Assistance
18 Act (25 U.S.C. 450b).

19 (16) NATURAL GAS UTILITY.—The term “nat-
20 ural gas utility” means any person or State agency
21 that transports, distributes, or sells natural gas at
22 retail, including nonregulated utilities and utilities
23 that are subject to State regulation.

24 (17) QUALIFIED CONTRACTOR.—The term
25 “qualified contractor” means a residential energy ef-

1 efficiency contractor that meets minimum applicable
2 requirements established under section 103.

3 (18) QUALITY ASSURANCE FRAMEWORK.—The
4 term “quality assurance framework” means a policy
5 adopted by a State to develop high standards for en-
6 suring quality in ongoing energy efficiency retrofit
7 activities in which the State has a role, including op-
8 eration of the quality assurance program and cre-
9 ating significant employment opportunities, in par-
10 ticular for targeted workers.

11 (19) QUALITY ASSURANCE PROGRAM.—

12 (A) IN GENERAL.—The term “quality as-
13 surance program” means a program established
14 under this title or recognized by the Secretary
15 under this title, to oversee the delivery of home
16 efficiency retrofit programs to ensure that work
17 is performed in accordance with standards and
18 criteria established under this title.

19 (B) INCLUSIONS.—For purposes of sub-
20 paragraph (A), delivery of retrofit programs in-
21 cludes delivery of quality assurance reviews of
22 rebate applications and field inspections for a
23 portion of customers receiving rebates and con-
24 ducted by a quality assurance provider, with the
25 consent of participating consumers and without

1 delaying rebate payments to participating con-
2 tractors.

3 (20) QUALITY ASSURANCE PROVIDER.—The
4 term “quality assurance provider” means any entity
5 that meets the minimum applicable requirements es-
6 tablished under section 105.

7 (21) REBATE AGGREGATOR.—The term “rebate
8 aggregator” means an entity that meets the require-
9 ments of section 104.

10 (22) RESNET.—The term “RESNET” means
11 the Residential Energy Services Network, which is a
12 nonprofit certification and standard setting organi-
13 zation for home energy raters that evaluate the en-
14 ergy performance of a home.

15 (23) SECRETARY.—The term “Secretary”
16 means the Secretary of Energy.

17 (24) SILVER STAR HOME ENERGY RETROFIT
18 PROGRAM.—The term “Silver Star Home Energy
19 Retrofit Program” means the Silver Star Home En-
20 ergy Retrofit Program established under section
21 106.

22 (25) STATE.—The term “State” means—

23 (A) a State;

24 (B) the District of Columbia;

25 (C) the Commonwealth of Puerto Rico;

- 1 (D) Guam;
- 2 (E) American Samoa;
- 3 (F) the Commonwealth of the Northern
- 4 Mariana Islands;
- 5 (G) the United States Virgin Islands; and
- 6 (H) any other territory or possession of the
- 7 United States.

8 (26) VENDOR.—The term “vendor” means any

9 retailer that sells directly to homeowners and con-

10 tractors the materials used for the energy savings

11 measures under section 106.

12 **SEC. 102. HOME STAR RETROFIT REBATE PROGRAM.**

13 (a) IN GENERAL.—The Secretary shall establish the

14 Home Star Retrofit Rebate Program.

15 (b) FEDERAL REBATE PROCESSING SYSTEM.—

16 (1) REQUIREMENTS.—

17 (A) IN GENERAL.—Not later than 30 days

18 after the date of enactment of this Act, the Sec-

19 retary, in consultation with the Secretary of the

20 Treasury and the Administrator, shall—

21 (i) establish a Federal Rebate Proc-

22 essing System which shall serve as a data-

23 base and information technology system

24 that will allow rebate aggregators to sub-

1 mit claims for reimbursement using stand-
2 ard data protocols;

3 (ii) establish a national retrofit
4 website that provides information on the
5 Home Star Retrofit Rebate Program, in-
6 cluding—

7 (I) how to determine whether
8 particular efficiency measures are eli-
9 gible for rebates; and

10 (II) how to participate in the
11 program;

12 (iii) make available, on a designated
13 website, model forms for compliance with
14 all applicable requirements of this title, to
15 be submitted by—

16 (I) each qualified contractor on
17 completion of an eligible home energy
18 retrofit; and

19 (II) each quality assurance pro-
20 vider on completion of field
21 verification; and

22 (iv) subject to section 115, provide
23 such administrative and technical support
24 to rebate aggregators and States as is nec-
25 essary to carry out this title.

1 (B) DISTRIBUTION OF FUNDS.—Not later
2 than 10 days after the date of receipt of bun-
3 dled rebate applications from a rebate
4 aggregator, the Secretary shall distribute funds
5 to the rebate aggregator on approved claims for
6 reimbursement made to the Federal Rebate
7 Processing System.

8 (C) FUNDING AVAILABILITY.—The Sec-
9 retary shall post, on a weekly basis, on the na-
10 tional retrofit website established under sub-
11 paragraph (A)(ii) information on—

12 (i) the number of rebate claims ap-
13 proved for reimbursement; and

14 (ii) the total amount of funds dis-
15 bursed for rebates.

16 (D) PROGRAM ADJUSTMENT OR TERMI-
17 NATION.—Based on the information described
18 in subparagraph (C), the Secretary shall an-
19 nounce a termination date and reserve funding
20 to process the rebate applications that are in
21 the Federal Rebate Processing System prior to
22 the termination date.

23 (2) MODEL FORMS.—In carrying out this sec-
24 tion, the Secretary shall consider the model forms

1 developed by the National Home Performance Coun-
2 cil.

3 (c) ADMINISTRATIVE AND TECHNICAL SUPPORT.—

4 Effective beginning not later than 30 days after the date
5 of enactment of this Act, the Secretary shall provide such
6 administrative and technical support to rebate aggregators
7 and States as is necessary to carry out this title.

8 (d) PUBLIC INFORMATION CAMPAIGN.—Not later
9 than 60 days after the date of enactment of this Act, the
10 Administrator shall develop and implement a public edu-
11 cation campaign that describes, at a minimum—

12 (1) the benefits of home energy retrofits;

13 (2) the availability of rebates for—

14 (A) the installation of qualifying efficiency
15 measures; and

16 (B) whole home efficiency improvements;

17 and

18 (3) the requirements for qualified contractors
19 and accredited contractors.

20 (e) LIMITATION.—Silver Star rebates provided under
21 section 106 and Gold Star rebates provided under section
22 107 may be provided for the same home only if—

23 (1) Silver Star rebates are awarded prior to
24 Gold Star rebates;

1 (2) energy savings obtained from measures
2 under the Silver Star Home Energy Retrofit Pro-
3 gram are not counted towards the simulated energy
4 savings that determine the value of a rebate under
5 the Gold Star Home Energy Retrofit Program; and

6 (3) the combined Silver Star and Gold Star re-
7 bates provided to the individual homeowner do not
8 exceed \$8,000.

9 (f) AVAILABILITY.—Not later than 90 days after the
10 date of enactment of this Act, the Secretary shall ensure
11 that Home Star retrofit rebates are available to all home-
12 owners in the United States to the maximum extent prac-
13 ticable.

14 **SEC. 103. CONTRACTORS.**

15 (a) CONTRACTOR QUALIFICATIONS FOR SILVER STAR
16 HOME ENERGY RETROFIT PROGRAM.—A contractor may
17 perform retrofit work under the Silver Star Home Energy
18 Retrofit Program in a State for which rebates are provided
19 under this title only if the contractor meets or provides—

20 (1) all applicable contractor licensing require-
21 ments established by the State or, if none exist at
22 the State level, the Secretary;

23 (2) insurance coverage of at least \$1,000,000
24 for general liability, and for such other purposes and
25 in such other amounts as required by the State;

1 (3) warranties to homeowners that completed
2 work will—

3 (A) be free of significant defects;

4 (B) be installed in accordance with the
5 specifications of the manufacturer; and

6 (C) perform properly for a period of at
7 least 1 year after the date of completion of the
8 work;

9 (4) an agreement to provide the owner of a
10 home, through a discount, the full economic value of
11 all rebates received under this title with respect to
12 the home; and

13 (5) an agreement to provide the homeowner, be-
14 fore a contract is executed between the contractor
15 and a homeowner covering the eligible work, a notice
16 of—

17 (A) the rebate amount the contractor in-
18 tends to apply for with respect to eligible work
19 under this title; and

20 (B) the means by which the rebate will be
21 passed through as a discount to the homeowner.

22 (b) CONTRACTOR QUALIFICATIONS FOR GOLD STAR
23 HOME ENERGY RETROFIT PROGRAM.—A contractor may
24 perform retrofit work under the Gold Star Home Energy

1 Retrofit Program in a State for which rebates are provided
2 under this title only if the contractor—

3 (1) meets the requirements for qualified con-
4 tractors under subsection (a); and

5 (2) is accredited—

6 (A) by the BPI; or

7 (B) under other standards approved by the
8 Secretary, in consultation with the Adminis-
9 trator.

10 (c) HEALTH AND SAFETY REQUIREMENTS.—Nothing
11 in this title relieves any contractor from the obligation to
12 comply with applicable Federal, State, and local health
13 and safety code requirements.

14 **SEC. 104. REBATE AGGREGATORS.**

15 (a) IN GENERAL.—The Secretary shall develop a net-
16 work of rebate aggregators that can facilitate the delivery
17 of rebates to participating contractors and vendors for dis-
18 counts provided to homeowners for energy efficiency ret-
19 rofit work.

20 (b) RESPONSIBILITIES.—Rebate aggregators shall—

21 (1) review the proposed rebate application for
22 completeness and accuracy;

23 (2) review measures under the Silver Star
24 Home Energy Retrofit Program and energy savings

1 under the Gold Star Home Energy Retrofit Program
2 for eligibility in accordance with this title;

3 (3) provide data to the Federal Data Processing
4 Center consistent with data protocols established by
5 the Secretary; and

6 (4) distribute funds received from DOE to con-
7 tractors, vendors, or other persons.

8 (c) PROCESSING REBATE APPLICATIONS.—A rebate
9 aggregator shall—

10 (1) submit the rebate application to the Federal
11 Rebate Processing Center not later than 10 days
12 after the date of receipt of a rebate application from
13 a contractor; and

14 (2) distribute funds to the contractor not later
15 than 10 days after the date of receipt from the Fed-
16 eral Rebate Processing System.

17 (d) ELIGIBILITY.—To be eligible to apply to the Sec-
18 retary for approval as a rebate aggregator, an entity shall
19 be—

20 (1) a Home Performance with Energy Star
21 partner;

22 (2) an entity administering a residential energy
23 efficiency retrofit program established or approved
24 by a State;

1 (3) a Federal Power Marketing Administration,
2 an electric utility, or a natural gas utility that has—

3 (A) an approved residential energy effi-
4 ciency retrofit program; and

5 (B) an established quality assurance pro-
6 vider network; or

7 (4) an entity that demonstrates to the Sec-
8 retary that the entity can perform the functions of
9 an rebate aggregator, without disrupting existing
10 residential retrofits in the States that are incor-
11 porating the Home Star Program, including dem-
12 onstration of—

13 (A) corporate status or status as a State
14 or local government;

15 (B) the capability to provide electronic
16 data to the Federal Rebate Processing System;

17 (C) a financial system that is capable of
18 tracking the distribution of rebates to partici-
19 pating contractors; and

20 (D) coordination and cooperation by the
21 entity with the appropriate State energy office
22 regarding participation in the existing energy
23 efficiency programs that will be delivering the
24 Home Star Program.

1 (e) APPLICATION TO BECOME A REBATE
2 AGGREGATOR.—Not later than 30 days after the date of
3 receipt of an application of an entity seeking to become
4 a rebate aggregator, the Secretary shall approve or deny
5 the application on the basis of the eligibility criteria under
6 subsection (d).

7 (f) APPLICATION PRIORITY.—In reviewing applica-
8 tions from entities seeking to become rebate aggregators,
9 the Secretary shall give priority to entities that commit—
10 (1) to reviewing applications for participation in
11 the program from all qualified contractors within a
12 defined geographic region; and

13 (2) to processing rebate applications more rap-
14 idly than the minimum requirements established
15 under the program.

16 (g) PUBLIC UTILITY COMMISSION EFFICIENCY TAR-
17 GETS.—The Secretary shall—

18 (1) develop guidelines for States to use to allow
19 utilities participating as rebate aggregators to count
20 the energy savings from the participation of the util-
21 ities toward State-level energy savings targets; and

22 (2) work with States to assist in the adoption
23 of the guidelines for the purposes and duration of
24 the Home Star Retrofit Rebate Program.

1 **SEC. 105. QUALITY ASSURANCE PROVIDERS.**

2 (a) IN GENERAL.—An entity shall be considered a
3 quality assurance provider under this title if the entity—

4 (1) is independent of the contractor;

5 (2) confirms the qualifications of contractors or
6 installers of home energy efficiency retrofits;

7 (3) confirms compliance with the requirements
8 of a “certified workforce”; and

9 (4) performs field inspections and other meas-
10 ures required to confirm the compliance of the ret-
11 rofit work under the Silver Star program, and the
12 retrofit work and the simulated energy savings
13 under the Gold Star program, based on the require-
14 ments of this title.

15 (b) INCLUSIONS.—An entity shall be considered a
16 quality assurance provider under this title if the entity is
17 qualified through—

18 (1) the International Code Council;

19 (2) the BPI;

20 (3) the RESNET;

21 (4) a State;

22 (5) a State-approved residential energy effi-
23 ciency retrofit program; or

24 (6) any other entity designated by the Sec-
25 retary, in consultation with the Administrator.

1 **SEC. 106. SILVER STAR HOME ENERGY RETROFIT PRO-**
2 **GRAM.**

3 (a) IN GENERAL.—If the energy efficiency retrofit of
4 a home is carried out after the date of enactment of this
5 Act in accordance with this section, a rebate shall be
6 awarded for the energy retrofit of a home for the installa-
7 tion of energy savings measures—

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

10 (2) installed in the home by a qualified con-
11 tractor not later than 1 year after the date of enact-
12 ment of this Act;

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

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

17 (b) ENERGY SAVINGS MEASURES.—Subject to sub-
18 section (c), a rebate shall be awarded under this section
19 for the installation of the following energy savings meas-
20 ures for a home energy retrofit that meet technical stand-
21 ards established under this section:

22 (1) Whole house air-sealing measures, in ac-
23 cordance with BPI standards or other procedures
24 approved by the Secretary.

25 (2) Attic insulation measures that—

1 (A) include sealing of air leakage between
2 the attic and the conditioned space, in accord-
3 ance with BPI standards or the attic portions
4 of the DOE or EPA thermal bypass checklist or
5 other procedures approved by the Secretary;

6 (B) add at least R-19 insulation to exist-
7 ing insulation;

8 (C) result in at least R-38 insulation in
9 DOE climate zones 1 through 4 and at least R-
10 49 insulation in DOE climate zones 5 through
11 8, including existing insulation, within the lim-
12 its of structural capacity; and

13 (D) cover at least—

14 (i) 100 percent of an accessible attic;

15 or

16 (ii) 75 percent of the total conditioned
17 footprint of the house.

18 (3) Duct seal or replacement that—

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

22 (B) in the case of duct replacement, re-
23 places and seals at least 50 percent of a dis-
24 tribution system of the home.

25 (4) Wall insulation that—

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

4 (B) is to full-stud thickness; and

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

7 (5) Crawl space insulation or basement wall
8 and rim joist insulation that is installed in accord-
9 ance with BPI standards or other procedures ap-
10 proved by the Secretary—

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

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

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

19 (B) fully covers the rim joist with at least
20 R-10 of new continuous or R-13 of cavity insu-
21 lation.

22 (6) Window replacement that replaces at least
23 8 exterior windows, or 75 percent of the exterior
24 windows in a home, whichever is less, with windows
25 that—

1 (A) are certified by the National Fenestra-
2 tion Rating Council; and

3 (B) comply with criteria applicable to win-
4 dows under section 25(c) of the Internal Rev-
5 enue Code of 1986.

6 (7) Door replacement that replaces at least 1
7 exterior door with doors that comply with criteria
8 applicable to doors under the 2010 Energy Star
9 specification for doors.

10 (8) Skylight replacement that replaces at least
11 1 skylight with skylights that comply with criteria
12 applicable to skylights under the 2010 Energy Star
13 specification for skylights.

14 (9)(A) Heating system replacement with—

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

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

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

22 (iv) an oil boiler with an AFUE rating of
23 86 or greater and that has temperature reset or
24 thermal purge controls; or

- 1 (v) a wood or wood pellet furnace, boiler,
2 or stove, if—
- 3 (I) the new system—
- 4 (aa) meets at least 75 percent of
5 the heating demands of the home; and
- 6 (bb) in the case of a wood stove,
7 replaces an existing wood stove with a
8 stove that is EPA-certified, if a
9 voucher is provided by the installer or
10 other responsible party certifying that
11 the old stove has been removed and
12 made inoperable;
- 13 (II) the home has a distribution sys-
14 tem (such as ducts, vents, blowers, or af-
15 fixed fans) that allows heat from the wood
16 stove, furnace, or boiler to reach all or
17 most parts of the home; and
- 18 (III) an independent test laboratory
19 approved by the Secretary or the Adminis-
20 trator certifies that the new system—
- 21 (aa) has thermal efficiency (with
22 a lower heating value) of at least 75
23 percent for stoves and 80 percent for
24 furnaces and boilers; and

1 (bb) has particulate emissions of
2 less than 3.0 grams per hour for wood
3 stoves or pellet stoves, and less than
4 0.32 lbs per million BTU for outdoor
5 boilers and furnaces.

6 (B) A rebate may be provided under this sec-
7 tion for the replacement of a furnace or boiler de-
8 scribed in clauses (i) through (iv) of subparagraph
9 (A) only if the new furnace or boiler is installed in
10 accordance with ANSI/ACCA Standard 5 QI-2007.

11 (10) Automatic water temperature controllers
12 that vary boiler water temperature in response to
13 changes in outdoor temperature or the demand for
14 heat, if the retrofit is to an existing boiler and not
15 in conjunction with a new boiler.

16 (11) Air-conditioner or heat-pump replacement
17 with a new unit that—

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

20 (B) meets or exceeds—

21 (i) in the case of an air-source condi-
22 tioner, SEER 16 and EER 13;

23 (ii) in the case of an air-source heat
24 pump, SEER 15, EER 12.5, and HSPF
25 8.5; and

1 (iii) in the case of a geothermal heat
2 pump, Energy Star tier 2 efficiency re-
3 quirements.

4 (12) Replacement of or with—

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

10 (B) a tankless natural gas or propane
11 water heater with an energy factor of at least
12 .82;

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

15 (D) an indirect water heater with an insu-
16 lated storage tank that—

17 (i) has a storage capacity of at least
18 30 gallons and is insulated to at least R-
19 16; and

20 (ii) is installed in conjunction with a
21 qualifying boiler described in paragraph
22 (7);

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

1 (F) a water heater with a solar hot water
2 system that—

3 (i) is certified by the Solar Rating and
4 Certification Corporation under specifica-
5 tion SRCC–OG–300; or

6 (ii) meets technical standards estab-
7 lished by the State of Hawaii; or

8 (G) a water heater installed in conjunction
9 with a qualifying geothermal heat pump de-
10 scribed in paragraph (11) that provides domes-
11 tic water heating through the use of—

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

14 (ii) a desuperheater.

15 (13) Storm windows that—

16 (A) are installed on a least 5 single-glazed
17 windows that do not have storm windows;

18 (B) are installed in a home listed on or eli-
19 gible for listing in the National Register of His-
20 toric Places; and

21 (C) comply with any procedures that the
22 Secretary may establish for storm windows (in-
23 cluding installation).

1 (14) Roof replacement that replaces at least 75
2 percent of the roof area with energy-saving roof
3 products certified under the Energy Star program.

4 (15) Window films that are installed on at least
5 8 exterior windows, doors, or skylights, or 75 per-
6 cent of the total exterior square footage of glass,
7 whichever is more, in a home with window films
8 that—

9 (A) are certified by the National Fenestra-
10 tion Rating Council;

11 (B) have a Solar Heat Gain Coefficient of
12 0.40 or less with a visible light-to-solar heat
13 gain ratio of at least 1.1 in 2009 International
14 Energy Conservation Code climate zones 1
15 through 8; and

16 (C) are certified to reduce the U-factor of
17 the National Fenestration Rating Council dual
18 pane reference window by 0.05 or greater and
19 are only applied to nonmetal frame dual pane
20 windows in 2009 International Energy Con-
21 servation Code climate zones 4 through 8.

22 (c) INSTALLATION COSTS.—Measures described in
23 paragraphs (1) through (15) of subsection (b) shall in-
24 clude expenditures for labor and other installation-related
25 costs (including venting system modification and conden-

1 sate disposal) properly allocable to the onsite preparation,
2 assembly, or original installation of the component.

3 (d) AMOUNT OF REBATE.—

4 (1) IN GENERAL.—Except as provided in para-
5 graphs (2) through (4), the amount of a rebate pro-
6 vided under this section shall be \$1,000 per measure
7 for the installation of energy savings measures de-
8 scribed in subsection (b).

9 (2) HIGHER REBATE AMOUNT.—Except as pro-
10 vided in paragraph (4), the amount of a rebate pro-
11 vided to the owner of a home or designee under this
12 section shall be \$1,500 per measure for—

13 (A) attic insulation and air sealing de-
14 scribed in subsection (b)(2);

15 (B) wall insulation described in subsection
16 (b)(4);

17 (C) a heating system described in sub-
18 section (b)(9); and

19 (D) an air-conditioner or heat-pump re-
20 placement described in subsection (b)(11).

21 (3) LOWER REBATE AMOUNT.—Except as pro-
22 vided in paragraph (4), the amount of a rebate pro-
23 vided under this section shall be—

1 (A) \$125 per door for the installation of
2 up to a maximum of 2 Energy Star doors de-
3 scribed in subsection (b)(7) for each home;

4 (B) \$125 per skylight for the installation
5 of up to a maximum of 2 Energy Star skylights
6 described in subsection (b)(8) for each home;

7 (C) \$750 for a maximum of 1 natural gas
8 or propane tankless water heater described in
9 subsection (b)(12)(B) for each home;

10 (D) \$450 for a maximum of 1 natural gas
11 or propane storage water heater described in
12 subsection (b)(12)(C) for each home;

13 (E) \$250 for rim joist insulation described
14 in subsection (b)(5)(B);

15 (F) \$50 for each storm window described
16 in subsection (b)(13);

17 (G) \$500 for a desuperheater described in
18 subsection (b)(12)(G)(ii);

19 (H) \$500 for a wood or pellet stove that
20 has a heating capacity of at least 28,000 BTU
21 per hour (using the upper end of the range list-
22 ed in the EPA list of Certified Wood Stoves)
23 and meets all of the requirements of subsection
24 (b)(9)(v) other than the requirements in items
25 (aa) and (bb) of subsection (b)(9)(v)(I);

1 (I) \$250 for an automatic water tempera-
2 ture controller described in subsection (b)(10);

3 (J) \$500 for a roof described in subsection
4 (b)(14); and

5 (K) \$500 for window films described in
6 subsection (b)(15).

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

10 (A) \$3,000;

11 (B) the sum of the amounts per measure
12 specified in paragraphs (1) through (3);

13 (C) 50 percent of the total cost of the in-
14 stalled measures; or

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

19 (e) INSULATION PRODUCTS PURCHASED WITHOUT
20 INSTALLATION SERVICES.—

21 (1) IN GENERAL.—A rebate shall be awarded
22 under this section for attic, wall, or crawl space in-
23 sulation or air sealing product if—

24 (A) the product—

1 (i) qualifies for a credit under section
2 25C of the Internal Revenue Code of 1986
3 but is not the subject of a claim for the
4 credit;

5 (ii) is purchased by a homeowner for
6 installation by the homeowner in a home
7 identified by the address of the home-
8 owner;

9 (iii) is identified and attributed to a
10 specific home in a submission by the ven-
11 dor to a rebate aggregator;

12 (iv) is not part of—

13 (I) an energy savings measure
14 described in paragraphs (6) through
15 (11) of subsection (b); and

16 (II) a retrofit for which a rebate
17 is provided under the Gold Star Home
18 Energy Retrofit Program; and

19 (v) is not part of an energy savings
20 measure described in paragraphs (1)
21 through (5) in subsection (b) for which the
22 homeowner received or will receive con-
23 tracting services; and

24 (B) educational material on proper instal-
25 lation of the product is provided to the home-

1 owner, including material on air sealing while
2 insulating.

3 (2) AMOUNT.—A rebate under this subsection
4 shall be awarded in an amount equal to 50 percent
5 of the total cost of the products described in para-
6 graph (1), but not to exceed \$250 per home.

7 (f) QUALIFICATION FOR REBATE UNDER SILVER
8 STAR HOME ENERGY RETROFIT PROGRAM.—On submis-
9 sion of a claim by a rebate aggregator to the system estab-
10 lished under section 104, the Secretary shall provide reim-
11 bursement to the rebate aggregator for reduced-cost en-
12 ergy-efficiency measures installed in a home, if—

13 (1) the measures undertaken for the retrofit
14 are—

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

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

19 (C) installed by a qualified contractor;

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

22 (3) not less than—

23 (A) 20 percent of the retrofits performed
24 by each qualified contractor under this section
25 are randomly subject to a third-party field

1 verification of all work associated with the ret-
2 rofit by a quality assurance provider; or

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

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

17 (B) a subsequent quality assurance visit is con-
18 ducted to evaluate the remedy not later than 7 days
19 after notification by the contractor that the defect
20 has been corrected; and

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

23 (g) HOMEOWNER COMPLAINTS.—

24 (1) IN GENERAL.—During the 1-year warranty
25 period, a homeowner may make a complaint under

1 the quality assurance program that compliance with
2 the quality assurance requirements of this section
3 has not been achieved.

4 (2) VERIFICATION.—

5 (A) IN GENERAL.—The quality assurance
6 program shall provide that, on receiving a com-
7 plaint under paragraph (1), an independent
8 quality assurance provider shall conduct field
9 verification on the retrofit work performed by
10 the contractor.

11 (B) ADMINISTRATION.—A verification
12 under this paragraph shall be—

13 (i) in addition to verifications con-
14 ducted under subsection (f)(3); and

15 (ii) corrected in accordance with sub-
16 section (f)(4).

17 (h) AUDITS.—

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

22 (2) INCORRECT PAYMENT.—On a determination
23 of the Secretary under paragraph (1) that a pay-
24 ment was made incorrectly to a party, the Secretary
25 may—

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

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

6 **SEC. 107. GOLD STAR HOME ENERGY RETROFIT PROGRAM.**

7 (a) IN GENERAL.—If the energy efficiency retrofit of
8 a home is carried out after the date of enactment of this
9 Act by an accredited contractor in accordance with this
10 section, a rebate shall be awarded for retrofits that achieve
11 whole home energy savings.

12 (b) AMOUNT OF REBATE.—Subject to subsection (e),
13 the amount of a rebate provided to the owner of a home
14 or a designee of the owner under this section shall be—

15 (1) \$3,000 for a 20-percent reduction in whole
16 home energy consumption; and

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

19 (A) \$8,000; or

20 (B) 50 percent of the total retrofit cost
21 (including the cost of audit and diagnostic pro-
22 cedures).

23 (c) ENERGY SAVINGS.—

24 (1) IN GENERAL.—Reductions in whole home
25 energy consumption under this section shall be de-

1 terminated by a comparison of the simulated energy
2 consumption of the home before and after the ret-
3 rofit of the home.

4 (2) DOCUMENTATION.—The percent improve-
5 ment in energy consumption under this section shall
6 be documented through—

7 (A)(i) the use of a whole home simulation
8 software program that has been approved as a
9 commercial alternative under the Weatheriza-
10 tion Assistance Program for Low-Income Per-
11 sons established under part A of title IV of the
12 Energy Conservation and Production Act (42
13 U.S.C. 6861 et seq.); or

14 (ii) a equivalent performance test estab-
15 lished by the Secretary, in consultation with the
16 Administrator; or

17 (B)(i) the use of a whole home simulation
18 software program that has been approved under
19 RESNET Publication No. 06–001 (or a suc-
20 cessor publication approved by the Secretary);

21 (ii) an equivalent performance test estab-
22 lished by the Secretary; or

23 (iii) a State-certified equivalent rating net-
24 work, as specified by IRS Notice 2008–35; or

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

3 (3) MONITORING.—The Secretary—

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

7 (B) may disallow the use of software pro-
8 grams that improperly assess energy savings.

9 (4) ASSUMPTIONS AND TESTING.—The Sec-
10 retary may—

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

14 (B) require compliance with software per-
15 formance tests covering—

16 (i) mechanical system performance;

17 (ii) duct distribution system efficiency;

18 (iii) hot water performance; or

19 (iv) other measures; and

20 (C) require the simulation of pre-retrofit
21 energy usage to be bounded by metered pre-ret-
22 rofit energy usage.

23 (5) RECOMMENDED MEASURES.—The simula-
24 tion tool shall have the ability at a minimum to as-
25 sess the savings associated with all the measures for

1 which incentives are specifically provided under the
2 Silver Star Home Energy Retrofit Program.

3 (d) QUALIFICATION FOR REBATE UNDER GOLD
4 STAR HOME ENERGY RETROFIT PROGRAM.—On submis-
5 sion of a claim by a rebate aggregator to the system estab-
6 lished under section 104, the Secretary shall provide reim-
7 bursement to the rebate aggregator for reduced-cost
8 whole-home retrofits, if—

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

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

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

15 (4) a home receiving a whole-home retrofit is
16 subject to random third-party field verification by a
17 quality assurance provider in accordance with sub-
18 section (e); and

19 (5)(A) the installed measures will be brought
20 into compliance with the specifications and quality
21 standards for the Home Star Retrofit Rebate Pro-
22 gram, by the installing qualified contractor, at no
23 additional cost to the homeowner, not later than 14
24 days after the date of notification of a defect if a

1 field verification by a quality assurance provider
2 finds that corrective work is needed;

3 (B) a subsequent quality assurance visit is con-
4 ducted to evaluate the remedy not later than 7 days
5 after notification by the contractor that the defect
6 has been corrected; and

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

9 (e) VERIFICATION.—

10 (1) IN GENERAL.—Subject to paragraph (2), all
11 work installed in a home receiving a whole-home ret-
12 rofit by an accredited contractor under this section
13 shall be subject to random third-party field
14 verification by a quality assurance provider at a rate
15 of—

16 (A) 15 percent; or

17 (B) in the case of work performed by an
18 accredited contractor using a certified work-
19 force, 10 percent.

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

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

1 (i) RESNET Publication No. 06–001
2 (or a successor publication approved by the
3 Secretary);

4 (ii) a State-certified equivalent rating
5 network, as specified in IRS Notice 2008–
6 35; or

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

9 (B) the eligible certifier is independent of
10 the qualified contractor or accredited contractor
11 in accordance with RESNET Publication No.
12 06–001 (or a successor publication approved by
13 the Secretary); and

14 (C) the rating includes field verification of
15 measures.

16 (f) HOMEOWNER COMPLAINTS.—

17 (1) IN GENERAL.—A homeowner may make a
18 complaint under the quality assurance program dur-
19 ing the 1-year warranty period that compliance with
20 the quality assurance requirements of this section
21 has not been achieved.

22 (2) VERIFICATION.—

23 (A) IN GENERAL.—The quality assurance
24 program shall provide that, on receiving a com-
25 plaint under paragraph (1), an independent

1 quality assurance provider shall conduct field
2 verification on the retrofit work performed by
3 the contractor.

4 (B) ADMINISTRATION.—A verification
5 under this paragraph shall be—

6 (i) in addition to verifications con-
7 ducted under subsection (e)(1); and

8 (ii) corrected in accordance with sub-
9 section (e).

10 (g) AUDITS.—

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

15 (2) INCORRECT PAYMENT.—On a determination
16 of the Secretary under paragraph (1) that a pay-
17 ment was made incorrectly to a party, the Secretary
18 may—

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

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

1 **SEC. 108. GRANTS TO STATES AND INDIAN TRIBES.**

2 (a) IN GENERAL.—A State or Indian tribe that re-
3 ceives a grant under subsection (d) shall use the grant
4 for—

5 (1) administrative costs;

6 (2) oversight of quality assurance plans;

7 (3) development of ongoing quality assurance
8 framework;

9 (4) establishment and delivery of financing pi-
10 lots in accordance with this title;

11 (5) coordination with existing residential ret-
12 rofit programs and infrastructure development to as-
13 sist deployment of the Home Star program;

14 (6) assisting in the delivery of services to rental
15 units; and

16 (7) the costs of carrying out the responsibilities
17 of the State or Indian tribe under the Silver Star
18 Home Energy Retrofit Program and the Gold Star
19 Home Energy Retrofit Program.

20 (b) INITIAL GRANTS.—Not later than 30 days after
21 the date of enactment of this Act, the Secretary shall
22 make the initial grants available under this section.

23 (c) INDIAN TRIBES.—The Secretary shall reserve an
24 appropriate amount of funding to be made available to
25 carry out this section for each fiscal year to make grants
26 available to Indian tribes under this section.

1 (d) STATE ALLOTMENTS.—From the amounts made
2 available to carry out this section for each fiscal year re-
3 maining after the reservation required under subsection
4 (c), the Secretary shall make grants available to States
5 in accordance with section 115.

6 (e) QUALITY ASSURANCE PROGRAMS.—

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

10 (A) operated as part of a State energy con-
11 servation plan established under part D of title
12 III of the Energy Policy and Conservation Act
13 (42 U.S.C. 6321 et seq.);

14 (B) managed by the office or the designee
15 of the office that is—

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

19 (ii) to the maximum extent prac-
20 ticable, conducting an existing energy effi-
21 ciency program; and

22 (C) in the case of a grant made to an In-
23 dian tribe, managed by an entity designated by
24 the Indian tribe to carry out a quality assur-

1 ance program or a national quality assurance
2 program manager.

3 (2) NONCOMPLIANCE.—If the Secretary deter-
4 mines that a State or Indian tribe has not provided
5 or cannot provide adequate oversight over a quality
6 assurance program to ensure compliance with this
7 title, the Secretary may—

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

10 (B) require that quality assurance pro-
11 viders operating in the State or by the Indian
12 tribe be overseen by a national quality assur-
13 ance program manager selected by the Sec-
14 retary.

15 (f) IMPLEMENTATION.—A State or Indian tribe that
16 receives a grant under this section may implement a qual-
17 ity assurance program through the State, the Indian tribe,
18 or a third party designated by the State or Indian tribe,
19 including—

20 (1) an energy service company;

21 (2) an electric utility;

22 (3) a natural gas utility;

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

25 (5) a unit of local government.

1 (g) PUBLIC-PRIVATE PARTNERSHIPS.—A State or
2 Indian tribe that receives a grant under this section are
3 encouraged to form partnerships with utilities, energy
4 service companies, and other entities—

5 (1) to assist in marketing a program;

6 (2) to facilitate consumer financing;

7 (3) to assist in implementation of the Silver
8 Star Home Energy Retrofit Program and the Gold
9 Star Home Energy Retrofit Program, including in-
10 stallation of qualified energy retrofit measures; and

11 (4) to assist in implementing quality assurance
12 programs.

13 (h) COORDINATION OF REBATE AND EXISTING
14 STATE-SPONSORED PROGRAMS.—

15 (1) IN GENERAL.—A State or Indian tribe
16 shall, to the maximum extent practicable, prevent
17 duplication through coordination of a program au-
18 thorized under this title with—

19 (A) the Energy Star appliance rebates pro-
20 gram authorized under the American Recovery
21 and Reinvestment Act of 2009 (Public Law
22 111–5; 123 Stat. 115); and

23 (B) comparable programs planned or oper-
24 ated by States, political subdivisions, electric

1 and natural gas utilities, Federal power mar-
2 keting administrations, and Indian tribes.

3 (2) EXISTING PROGRAMS.—In carrying out this
4 subsection, a State or Indian tribe shall—

5 (A) give priority to—

6 (i) comprehensive retrofit programs in
7 existence on the date of enactment of this
8 Act, including programs under the super-
9 vision of State utility regulators; and

10 (ii) using Home Star funds made
11 available under this title to enhance and
12 extend existing programs; and

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

16 **SEC. 109. QUALITY ASSURANCE FRAMEWORK.**

17 (a) IN GENERAL.—Not later than 180 days after the
18 date that the Secretary initially provides funds to a State
19 under this title, the State shall submit to the Secretary
20 a plan to implement a quality assurance program that cov-
21 ers all federally assisted residential efficiency retrofit work
22 administered, supervised, or sponsored by the State.

23 (b) IMPLEMENTATION.—The State shall—

24 (1) develop a quality assurance framework in
25 consultation with industry stakeholders, including

1 representatives of efficiency program managers, con-
2 tractors, and environmental, energy efficiency, and
3 labor organizations; and

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

7 (c) COMPONENTS.—The quality assurance framework
8 established under this section shall include—

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

12 (2) maintenance of a list of prequalified con-
13 tractors authorized to perform federally assisted res-
14 idential retrofit work; and

15 (3) minimum standards for prequalified con-
16 tractors that include—

17 (A) accreditation;

18 (B) legal compliance procedures;

19 (C) proper classification of employees; and

20 (D) maintenance of records needed to
21 verify compliance;

22 (4) targets and realistic plans for—

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

1 (B) the employment of graduates of train-
2 ing programs that primarily serve low-income
3 populations with a median income that is below
4 200 percent of the poverty line (as defined in
5 section 673(2) of the Community Services
6 Block Grant Act (42 U.S.C. 9902(2), including
7 any revision required by that section)) by par-
8 ticipating contractors; and

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

13 (d) NONCOMPLIANCE.—If the Secretary determines
14 that a State has not taken the steps required under this
15 section, the Secretary shall provide to the State a period
16 of at least 90 days to comply before suspending the par-
17 ticipation of the State in the program.

18 **SEC. 110. REPORT.**

19 (a) IN GENERAL.—Not later than 1 year after the
20 date of enactment of this Act, the Secretary shall submit
21 to the Committee on Energy and Natural Resources of
22 the Senate and the Committee on Energy and Commerce
23 of the House of Representatives a report on the use of
24 funds under this title.

1 (b) CONTENTS.—The report shall include a descrip-
2 tion of—

3 (1) the energy savings produced as a result of
4 this title;

5 (2) the direct and indirect employment created
6 as a result of the programs supported by the funds
7 provided under this title;

8 (3) the specific entities implementing the en-
9 ergy efficiency programs;

10 (4) the beneficiaries who received the efficiency
11 improvements;

12 (5) the manner in which funds provided under
13 this title were used;

14 (6) the sources (such as mortgage lenders, util-
15 ity companies, and local governments) and types of
16 financing used by the beneficiaries to finance the
17 retrofit expenses that were not covered by grants
18 provided under this title;

19 (7) the results of verification requirements; and

20 (8) any other information the Secretary con-
21 siders appropriate.

22 (c) NONCOMPLIANCE.—If the Secretary determines
23 that a rebate aggregator, State, or Indian tribe has not
24 provided the information required under this section, the
25 Secretary shall provide to the rebate aggregator, State, or

1 Indian tribe a period of at least 90 days to provide any
2 necessary information, subject to penalties imposed by the
3 Secretary for entities other than States and Indian tribes,
4 which may include withholding of funds or reduction of
5 future grant amounts.

6 **SEC. 111. ADMINISTRATION.**

7 (a) IN GENERAL.—Subject to section 115(b), not
8 later than 30 days after the date of enactment of this Act,
9 the Secretary shall provide such administrative and tech-
10 nical support to rebate aggregators, States, and Indian
11 tribes as is necessary to carry out the functions designated
12 to States under this title.

13 (b) APPOINTMENT OF PERSONNEL.—Notwith-
14 standing the provisions of title 5, United States Code, gov-
15 erning appointments in the competitive service and Gen-
16 eral Schedule classifications and pay rates, the Secretary
17 may appoint such professional and administrative per-
18 sonnel as the Secretary considers necessary to carry out
19 this title.

20 (c) RATE OF PAY.—The rate of pay for a person ap-
21 pointed under subsection (a) shall not exceed the max-
22 imum rate payable for GS-15 of the General Schedule
23 under chapter 53 of title 5, United States Code.

24 (d) CONSULTANTS.—Notwithstanding section 303 of
25 the Federal Property and Administrative Services Act of

1 1949 (41 U.S.C. 253), the Secretary may retain such con-
2 sultants on a noncompetitive basis as the Secretary con-
3 siders necessary to carry out this title.

4 (e) CONTRACTING.—In carrying out this title, the
5 Secretary may waive all or part of any provision of the
6 Competition in Contracting Act of 1984 (Public Law 98–
7 369; 98 Stat. 1175), an amendment made by that Act,
8 or the Federal Acquisition Regulation on a determination
9 that circumstances make compliance with the provisions
10 contrary to the public interest.

11 (f) REGULATIONS.—

12 (1) IN GENERAL.—Notwithstanding section 553
13 of title 5, United States Code, the Secretary may
14 issue regulations that the Secretary, in the sole dis-
15 cretion of the Secretary, determines necessary to
16 carry out the Home Star Retrofit Rebate Program.

17 (2) DEADLINE.—If the Secretary determines
18 that regulations described in paragraph (1) are nec-
19 essary, the regulations shall be issued not later than
20 60 days after the date of the enactment of this Act.

21 (g) INFORMATION COLLECTION.—Chapter 35 of title
22 44, United States Code, shall not apply to any information
23 collection requirement necessary for the implementation of
24 the Home Star Retrofit Rebate Program.

1 (h) ADJUSTMENT OF REBATE AMOUNTS.—Effective
2 beginning on the date that is 180 days after the date of
3 enactment of this Act, the Secretary may, after not less
4 than 30 days public notice, prospectively adjust the rebate
5 amounts provided in this section based on—

6 (1) the use of the Silver Star Home Energy
7 Retrofit Program and the Gold Star Home Energy
8 Retrofit Program; and

9 (2) other program data.

10 **SEC. 112. TREATMENT OF REBATES.**

11 (a) IN GENERAL.—For purposes of the Internal Rev-
12 enue Code of 1986, rebates received for eligible measures
13 under this title—

14 (1) shall not be considered taxable income to a
15 homeowner;

16 (2) shall prohibit the consumer from applying
17 for a tax credit allowed under section 25C, 25D, or
18 25E of that Code for the same eligible measures per-
19 formed in the home of the homeowner; and

20 (3) shall be considered a credit allowed under
21 section 25C, 25D, or 25E of that Code for purposes
22 of any limitation on the amount of the credit under
23 that section.

24 (b) NOTICE.—

1 (1) IN GENERAL.—A participating contractor
2 shall provide notice to a homeowner of the provisions
3 of subsection (a) before eligible work is performed in
4 the home of the homeowner.

5 (2) NOTICE IN REBATE FORM.—A homeowner
6 shall be notified of the provisions of subsection (a)
7 in the appropriate rebate form developed by the Sec-
8 retary, in consultation with the Secretary of the
9 Treasury.

10 (3) AVAILABILITY OF REBATE FORM.—A par-
11 ticipating contractor shall obtain the rebate form on
12 a designated website in accordance with section
13 102(b)(1)(A)(iii).

14 **SEC. 113. PENALTIES.**

15 (a) IN GENERAL.—It shall be unlawful for any per-
16 son to violate this title (including any regulation issued
17 under this title), other than a violation as the result of
18 a clerical error.

19 (b) CIVIL PENALTY.—Any person who commits a vio-
20 lation of this title shall be liable to the United States for
21 a civil penalty in an amount that is not more than the
22 higher of—

23 (1) \$15,000 for each violation; or

24 (2) 3 times the value of any associated rebate
25 under this title.

1 (c) ADMINISTRATION.—The Secretary may—

2 (1) assess and compromise a penalty imposed
3 under subsection (b); and

4 (2) require from any entity the records and in-
5 spections necessary to enforce this title.

6 (d) FRAUD.—In addition to any civil penalty, any
7 person who commits a fraudulent violation of this title
8 shall be subject to criminal prosecution.

9 **SEC. 114. HOME STAR ENERGY EFFICIENCY LOAN PRO-**
10 **GRAM.**

11 (a) DEFINITIONS.—In this section:

12 (1) ELIGIBLE PARTICIPANT.—The term “eligi-
13 ble participant” means a homeowner who receives fi-
14 nancial assistance from a qualified financing entity
15 to carry out energy efficiency or renewable energy
16 improvements to an existing home or other residen-
17 tial building of the homeowner in accordance with
18 the Gold Star Home Energy Retrofit Program or
19 the Silver Star Home Energy Retrofit Program.

20 (2) PROGRAM.—The term “program” means
21 the Home Star Energy Efficiency Loan Program es-
22 tablished under subsection (b).

23 (3) QUALIFIED FINANCING ENTITY.—The term
24 “qualified financing entity” means a State, political
25 subdivision of a State, tribal government, electric

1 utility, natural gas utility, nonprofit or community-
2 based organization, energy service company, retailer,
3 or any other qualified entity that—

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

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

8 (4) QUALIFIED LOAN PROGRAM MECHANISM.—
9 The term “qualified loan program mechanism”
10 means a loan program that is—

11 (A) administered by a qualified financing
12 entity; and

13 (B) principally funded—

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

16 (ii) through the energy loan program
17 of the Federal National Mortgage Associa-
18 tion.

19 (b) ESTABLISHMENT.—The Secretary shall establish
20 a Home Star Energy Efficiency Loan Program under
21 which the Secretary shall make funds available to States
22 to support financial assistance provided by qualified fi-
23 nancing entities for making, to existing homes, energy effi-
24 ciency improvements that qualify under the Gold Star

1 Home Energy Retrofit Program or the Silver Star Home
2 Energy Retrofit Program.

3 (c) ELIGIBILITY OF QUALIFIED FINANCING ENTI-
4 TIES.—To be eligible to participate in the program, a
5 qualified financing entity shall—

6 (1) offer a financing product under which eligi-
7 ble participants may pay over time for the cost to
8 the eligible participant (after all applicable Federal,
9 State, local, and other rebates or incentives are ap-
10 plied) of making improvements described in sub-
11 section (b);

12 (2) require all financed improvements to be per-
13 formed by contractors in a manner that meets min-
14 imum standards that are at least as stringent as the
15 standards provided under sections 106 and 107; and

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

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

23 (B) with respect to secured loans or other
24 forms of financial assistance, commercially rec-
25 ognized best practices applicable to the form of

1 financial assistance being provided (as deter-
2 mined by the designated entity administering
3 the program in the State).

4 (d) ALLOCATION.—In making funds available to
5 States for each fiscal year under this section, the Sec-
6 retary shall use the formula used to allocate funds to
7 States to carry out State energy conservation plans estab-
8 lished under part D of title III of the Energy Policy and
9 Conservation Act (42 U.S.C. 6321 et seq.).

10 (e) QUALIFIED FINANCING ENTITIES.—Before mak-
11 ing funds available to a State under this section, the Sec-
12 retary shall require the Governor of the State to provide
13 to the Secretary a letter of assurance that the State—

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

16 (2) has established a qualified loan program
17 mechanism that—

18 (A) includes a methodology to ensure cred-
19 ible energy savings or renewable energy genera-
20 tion;

21 (B) incorporates an effective repayment
22 mechanism, which may include—

23 (i) on-utility-bill repayment;

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

- 1 (iii) municipal service charges;
- 2 (iv) energy or energy efficiency serv-
- 3 ices contracts;
- 4 (v) energy efficiency power purchase
- 5 agreements;
- 6 (vi) unsecured loans applying the un-
- 7 derwriting requirements of the energy loan
- 8 program of the Federal National Mortgage
- 9 Association; or
- 10 (vii) alternative contractual repayment
- 11 mechanisms that have been demonstrated
- 12 to have appropriate risk mitigation fea-
- 13 tures; and
- 14 (C) will provide, in a timely manner, all in-
- 15 formation regarding the administration of the
- 16 program as the Secretary may require to permit
- 17 the Secretary to meet the reporting require-
- 18 ments of subsection (h).
- 19 (f) USE OF FUNDS.—Funds made available to States
- 20 under the program may be used to support financing prod-
- 21 ucts offered by qualified financing entities to eligible par-
- 22 ticipants for eligible energy efficiency work, by pro-
- 23 viding—
- 24 (1) interest rate reductions;

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

3 (3) revolving loan funds from which qualified fi-
4 nancing entities may offer direct loans; or

5 (4) other debt instruments or financial products
6 necessary—

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

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

11 (g) USE OF REPAYMENT FUNDS.—In the case of a
12 revolving loan fund established by a State described in
13 subsection (f)(3), a qualified financing entity may use
14 funds repaid by eligible participants under the program
15 to provide financial assistance for additional eligible par-
16 ticipants to make improvements described in subsection
17 (b) in a manner that is consistent with this section or
18 other such criteria as are prescribed by the State.

19 (h) PROGRAM EVALUATION.—Not later than 1 year
20 after the date of enactment of this Act, the Secretary shall
21 submit to Congress a program evaluation that describes—

22 (1) how many eligible participants have partici-
23 pated in the program;

24 (2) how many jobs have been created through
25 the program, directly and indirectly;

1 (3) what steps could be taken to promote fur-
2 ther deployment of energy efficiency and renewable
3 energy retrofits;

4 (4) the quantity of verifiable energy savings,
5 homeowner energy bill savings, and other benefits of
6 the program; and

7 (5) the performance of the programs carried
8 out by qualified financing entities under this section,
9 including information on the rate of default and re-
10 payment.

11 (i) CREDIT SUPPORT FOR FINANCING PROGRAMS.—
12 Section 1705 of the Energy Policy Act of 2005 (42 U.S.C.
13 16516) is amended—

14 (1) in subsection (a), by adding at the end the
15 following:

16 “(4) Energy efficiency projects, including
17 projects to retrofit residential, commercial, and in-
18 dustrial buildings, facilities, and equipment, includ-
19 ing financing programs that finance the retrofitting
20 of residential, commercial, and industrial buildings,
21 facilities, and equipment.”.

22 (2) by redesignating subsection (e) as sub-
23 section (f); and

24 (3) by inserting after subsection (d) the fol-
25 lowing:

1 “(e) CREDIT SUPPORT FOR FINANCING PRO-
2 GRAMS.—

3 “(1) IN GENERAL.—In the case of programs
4 that finance the retrofitting of residential, commer-
5 cial, and industrial buildings, facilities, and equip-
6 ment described in subsection (a)(4), the Secretary
7 may—

8 “(A) offer loan guarantees for portfolios of
9 debt obligations; and

10 “(B) purchase or make commitments to
11 purchase portfolios of debt obligations.

12 “(2) TERM.—Notwithstanding section 1702(f),
13 the term of any debt obligation that receives credit
14 support under this subsection shall require full re-
15 payment over a period not to exceed the lesser of—

16 “(A) 30 years; and

17 “(B) the projected weighted average useful
18 life of the measure or system financed by the
19 debt obligation or portfolio of debt obligations
20 (as determined by the Secretary).

21 “(3) UNDERWRITING.—The Secretary may—

22 “(A) delegate underwriting responsibility
23 for portfolios of debt obligations under this sub-
24 section to financial institutions that meet quali-
25 fications determined by the Secretary; and

1 “(B) determine an appropriate percentage
2 of loans in a portfolio to review in order to con-
3 firm sound underwriting.

4 “(4) ADMINISTRATION.—Subsections (c) and
5 (d)(3) of section 1702 and subsection (c) of this sec-
6 tion shall not apply to loan guarantees made under
7 this subsection.”.

8 (j) TERMINATION OF EFFECTIVENESS.—The author-
9 ity provided by this section and the amendments made by
10 this section terminates effective on the date that is 2 years
11 after the date of enactment of this Act.

12 **SEC. 115. FUNDING.**

13 (a) AUTHORIZATION OF APPROPRIATIONS.—

14 (1) IN GENERAL.—Subject to subsection (j),
15 there is authorized to be appropriated to carry out
16 this title \$5,000,000,000 for the period of fiscal
17 years 2010 through 2012.

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

23 (b) GRANTS TO STATES.—

24 (1) IN GENERAL.—Of the amount provided
25 under subsection (a), \$380,000,000 or not more

1 than 6 percent, whichever is less, shall be used to
2 carry out section 108.

3 (2) DISTRIBUTION TO STATE ENERGY OF-
4 FICES.—

5 (A) IN GENERAL.—Not later than 30 days
6 after the date of enactment of this Act, the Sec-
7 retary shall—

8 (i) provide to State energy offices 25
9 percent of the funds described in para-
10 graph (1); and

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

14 (B) ALLOCATION.—

15 (i) ALLOCATION FORMULA.—Funds
16 described in subparagraph (A)(i) shall be
17 made available in accordance with the allo-
18 cation formula for State energy conserva-
19 tion plans established under part D of title
20 III of the Energy Policy and Conservation
21 Act (42 U.S.C. 6321 et seq.).

22 (ii) PERFORMANCE-BASED SYSTEM.—
23 The balance of the funds described in sub-
24 paragraph (A)(ii) shall be made available

1 in accordance with the performance-based
2 system described in subparagraph (A)(ii).

3 (c) QUALITY ASSURANCE COSTS.—

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

8 (2) MANAGEMENT.—Funds provided under this
9 subsection shall be overseen by—

10 (A) State energy offices described in sub-
11 section (b)(2); or

12 (B) other entities determined by the Sec-
13 retary to be eligible to carry out quality assur-
14 ance functions under this title.

15 (3) DISTRIBUTION TO QUALITY ASSURANCE
16 PROVIDERS OR REBATE AGGREGATORS.—The Sec-
17 retary shall use funds provided under this subsection
18 to compensate quality assurance providers, or rebate
19 aggregators, for services under the Silver Star Home
20 Energy Retrofit Program or the Gold Star Home
21 Energy Retrofit Program through the Federal Re-
22 bate Processing Center based on the services pro-
23 vided to contractors under a quality assurance pro-
24 gram and rebate aggregation.

1 (4) INCENTIVES.—The amount of incentives
2 provided to quality assurance providers or rebate
3 aggregators shall be—

4 (A)(i) in the case of the Silver Star Home
5 Energy Retrofit Program—

6 (I) \$25 per rebate review and submis-
7 sion provided under the program; and

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

10 (ii) in the case of the Gold Star Home En-
11 ergy Retrofit Program—

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

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

17 (B) such other amounts as the Secretary
18 considers necessary to carry out the quality as-
19 surance provisions of this title.

20 (d) TRACKING OF REBATES AND EXPENDITURES.—

21 Of the amount provided under subsection (a), not more
22 than \$150,000,000 shall be used for costs associated with
23 database systems to track rebates and expenditures under
24 this title and related administrative costs incurred by the
25 Secretary.

1 (e) PUBLIC EDUCATION AND COORDINATION.—Of
2 the amount provided under subsection (a), not more than
3 \$10,000,000 shall be used for costs associated with public
4 education and coordination with the Federal Energy Star
5 program incurred by the Administrator.

6 (f) INDIAN TRIBES.—Of the amount provided under
7 subsection (a), the Secretary shall reserve not more than
8 3 percent to make grants available to Indian tribes under
9 this section.

10 (g) SILVER STAR HOME ENERGY RETROFIT PRO-
11 GRAM.—

12 (1) IN GENERAL.—In the case of the Silver
13 Star Home Energy Retrofit Program, of the amount
14 provided under subsection (a) after funds are pro-
15 vided in accordance with subsections (b) through (e),
16 \$2,751,000,000 for the 1-year period beginning on
17 the date of enactment of this Act (less any amounts
18 required under subsection (f)) shall be used by the
19 Secretary to provide rebates and incentives author-
20 ized under the Silver Star Home Energy Retrofit
21 Program.

22 (2) PRODUCTS PURCHASED WITHOUT INSTAL-
23 LATION SERVICES.—Of the amounts made available
24 for the Silver Star Home Energy Retrofit Program
25 under this section, not more than \$250,000,000

1 shall be made available for rebates under section
2 106(e).

3 (h) GOLD STAR HOME ENERGY RETROFIT PRO-
4 GRAM.—In the case of the Gold Star Home Energy Ret-
5 rofit Program, of the amount provided under subsection
6 (a) after funds are provided in accordance with sub-
7 sections (b) through (e), \$1,349,000,000 for the 2-year
8 period beginning on the date of enactment of this Act (less
9 any amounts required under subsection (f)) shall be used
10 by the Secretary to provide rebates and incentives author-
11 ized under the Gold Star Home Energy Retrofit Program.

12 (i) PROGRAM REVIEW AND BACKSTOP FUNDING.—

13 (1) REVIEW AND ANALYSIS.—

14 (A) IN GENERAL.—Not later than 180
15 days after the date of enactment of this Act,
16 the Secretary shall perform a State-by-State
17 analysis and review the distribution of Home
18 Star retrofit rebates under this title.

19 (B) RENTAL UNITS.—Not later than 120
20 days after the date of enactment of this Act,
21 the Secretary shall perform a review and anal-
22 ysis, with input and review from the Secretary
23 of Housing and Urban Development, of the pro-
24 cedures for delivery of services to rental units.

1 (2) ADJUSTMENT.—The Secretary may allocate
2 technical assistance funding to assist States that, as
3 determined by the Secretary—

4 (A) have not sufficiently benefitted from
5 the Home Star Retrofit Rebate Program; or

6 (B) in which rental units have not been
7 adequately served.

8 (j) RETURN OF UNDISBURSED FUNDS.—

9 (1) SILVER STAR HOME ENERGY RETROFIT
10 PROGRAM.—If the Secretary has not disbursed all
11 the funds available for rebates under the Silver Star
12 Home Energy Retrofit Program by the date that is
13 1 year after the date of enactment of this Act, any
14 undisbursed funds shall be made available to the
15 Gold Star Home Energy Retrofit Program.

16 (2) GOLD STAR HOME ENERGY RETROFIT PRO-
17 GRAM.—If the Secretary has not disbursed all the
18 funds available for rebates under the Gold Star
19 Home Energy Retrofit Program by the date that is
20 2 years after the date of enactment of this Act, any
21 undisbursed funds shall be returned to the Treasury.

22 (k) FINANCING.—Of the amounts allocated to the
23 States under subsection (b), not less than \$200,000,000
24 shall be used to carry out the financing provisions of this
25 title in accordance with section 114.

1 **TITLE II—PERFORMANCE BASED**
2 **ENERGY IMPROVEMENT TAX**
3 **CREDITS**

4 **SEC. 201. PERFORMANCE BASED ENERGY IMPROVEMENTS**
5 **FOR NONBUSINESS PROPERTY.**

6 (a) IN GENERAL.—Subpart A of part IV of sub-
7 chapter A of chapter 1 of the Internal Revenue Code of
8 1986 is amended by inserting after section 25D the fol-
9 lowing new section:

10 **“SEC. 25E. PERFORMANCE BASED ENERGY IMPROVE-**
11 **MENTS.**

12 “(a) IN GENERAL.—In the case of an individual,
13 there shall be allowed as a credit against the tax imposed
14 by this chapter for the taxable year an amount equal to
15 50 percent of the amount of qualified home energy effi-
16 ciency expenditures paid or incurred by the taxpayer dur-
17 ing the taxable year.

18 “(b) LIMITATIONS.—

19 “(1) DOLLAR LIMITATION.—

20 “(A) IN GENERAL.—The amount of the
21 credit allowed under subsection (a) with respect
22 to any individual for any taxable year shall not
23 exceed the amount determined under subpara-
24 graph (B) with respect to the principal resi-
25 dence of such individual.

1 “(B) AMOUNT DETERMINED.—

2 “(i) IN GENERAL.—Subject to clause
3 (iv), the amount determined under this
4 subparagraph is the base amount increased
5 by the amount determined under clause
6 (iii).

7 “(ii) BASE AMOUNT.—For purposes of
8 this subparagraph, the base amount is—

9 “(I) \$3,000, in the case of a resi-
10 dence the construction of which is
11 completed before January 1, 2000,
12 and

13 “(II) \$2,000, in the case of a resi-
14 dence the construction of which is
15 completed after December 31, 1999.

16 “(iii) INCREASE AMOUNT.—The
17 amount determined under this clause is—

18 “(I) in the case of a residence de-
19 scribed in clause (ii)(I) which has a
20 rating system score equal to the rat-
21 ing system score which corresponds to
22 the IECC Standard Reference Design
23 for a home of the size and in the cli-
24 mate zone of such residence, \$1,000,
25 and

1 “(II) in the case of any residence
2 with a rating system score which is
3 lower than that which corresponds to
4 such IECC Standard Reference De-
5 sign by not less than 5 points, \$500
6 for each 5 points by which the rating
7 system score which corresponds to
8 such IECC Standard Reference De-
9 sign exceeds the rating system score
10 of such residence (in addition to the
11 amount provided under clause (i), if
12 applicable).

13 “(iv) LIMITATION.—In no event shall
14 the amount determined under this sub-
15 paragraph exceed \$8,000 with respect to
16 any individual.

17 “(2) LIMITATION BASED ON AMOUNT OF
18 TAX.—In the case of taxable years to which section
19 26(a)(2) does not apply, the credit allowed under
20 subsection (a) for any taxable year shall not exceed
21 the excess of—

22 “(A) the sum of the regular tax liability
23 (as defined in section 26(b)) plus the tax im-
24 posed by section 55, over

1 “(B) the sum of the credits allowable
2 under this subpart (other than this section and
3 sections 23, 24, and 25B) and section 27 for
4 the taxable year.

5 “(c) QUALIFIED HOME ENERGY EFFICIENCY EX-
6 PENDITURES.—For purposes of this section—

7 “(1) IN GENERAL.—The term ‘qualified home
8 energy efficiency expenditures’ means any amount
9 paid or incurred for a qualified whole home energy
10 efficiency retrofit, including the cost of audit diag-
11 nostic procedures, of a principal residence of the tax-
12 payer which is located in the United States.

13 “(2) QUALIFIED WHOLE HOME ENERGY EFFI-
14 CIENCY RETROFIT.—

15 “(A) IN GENERAL.—The term ‘qualified
16 whole home energy efficiency retrofit’ means a
17 retrofit of an existing residence if, after such
18 retrofit, such residence—

19 “(i) has a rating system score of not
20 greater than—

21 “(I) 100, determined under the
22 HERS Index, in the case of a resi-
23 dence the construction of which is
24 completed before January 1, 2000,
25 and

1 “(II) the rating system score
2 which corresponds to the IECC
3 Standard Reference Design for a
4 home of the size and in the climate
5 zone of such residence, in the case of
6 a residence the construction of which
7 is completed after December 31,
8 1999, or

9 “(ii) achieves a degree of energy effi-
10 ciency improvement which is equivalent to
11 the standard applicable to such residence
12 under clause (i), as determined by the Sec-
13 retary.

14 For purposes of the preceding sentence, the
15 HERS Index is the HERS Index established by
16 the Residential Energy Services Network, as in
17 effect on January 1, 2011.

18 “(B) ACCREDITATION RULE.—A retrofit
19 shall not be treated as a qualified whole home
20 energy efficiency retrofit unless such retrofit is
21 conducted by a company which is accredited by
22 the Building Performance Institute, or which
23 fulfills an equivalent standard as determined by
24 the Secretary.

1 “(C) DETERMINATION OF RATING SYSTEM
2 SCORE OR EQUIVALENT.—

3 “(i) IN GENERAL.—Subject to clause
4 (ii), the rating system score of a residence,
5 or the equivalent described in subpara-
6 graph (A)(ii), shall be determined by an
7 auditor or rater certified by the Residential
8 Energy Services Network or the Building
9 Performance Institute.

10 “(ii) SECRETARIAL DETERMINA-
11 TION.—At the discretion of the Secretary,
12 the Secretary may, in consultation with the
13 Secretary of Energy, determine an alter-
14 native standard for certification of an
15 auditor or rater for purposes of deter-
16 mining the rating system score (or equiva-
17 lent described in subparagraph (A)(ii)) of
18 a residence. If the Secretary establishes
19 such an alternative standard, clause (i)
20 shall cease to apply unless the Secretary
21 determines otherwise.

22 “(D) REGULATIONS.—Not later than De-
23 cember 31, 2011, in consultation with the Sec-
24 retary, the Secretary of Energy shall prescribe
25 regulations which specify the costs with respect

1 to energy improvements which may be taken
2 into account under this paragraph as part of a
3 qualified whole home energy efficiency retrofit.

4 “(3) NO DOUBLE BENEFIT.—

5 “(A) IN GENERAL.—No credit shall be al-
6 lowed under this section for any taxable year in
7 which the taxpayer elects the credit under sec-
8 tion 25C.

9 “(B) NO DOUBLE BENEFIT FOR CERTAIN
10 EXPENDITURES.—The term ‘qualified home en-
11 ergy efficiency expenditures’ shall not include
12 any expenditure for which a deduction or credit
13 is otherwise allowed to the taxpayer under this
14 chapter for the taxable year or with respect to
15 which the taxpayer receives any Federal rebate.

16 “(4) PRINCIPAL RESIDENCE.—The term ‘prin-
17 cipal residence’ has the same meaning as when used
18 in section 121, except that—

19 “(A) no ownership requirement shall be
20 imposed, and

21 “(B) the period for which a building is
22 treated as used as a principal residence shall
23 also include the 60-day period ending on the 1st
24 day on which it would (but for this subpara-

1 graph) first be treated as used as a principal
2 residence.

3 “(d) RATING SYSTEM SCORE.—For purposes of this
4 section—

5 “(1) IN GENERAL.—Subject to paragraph (2),
6 the rating system score shall be the score assigned
7 under the HERS Index established by the Residen-
8 tial Energy Services Network.

9 “(2) SECRETARIAL DETERMINATION.—At the
10 discretion of the Secretary, the Secretary may, in
11 consultation with the Secretary of Energy, determine
12 an alternative rating system (including an alter-
13 native system based on the HERS Index established
14 by the Residential Energy Services Network). If the
15 Secretary establishes such an alternative rating sys-
16 tem, the rating system score with respect to any res-
17 idence shall be the score assigned under such alter-
18 native rating system.

19 “(e) IECC STANDARD REFERENCE DESIGN.—

20 “(1) IN GENERAL.—The term ‘IECC Standard
21 Reference Design’ means the Standard Reference
22 Design determined under the International Energy
23 Conservation Code in effect for the taxable year in
24 which the credit under this section is determined.

1 “(2) LIMITATION TO RESIDENCES CON-
2 STRUCTED AFTER EFFECTIVE DATE OF MOST RE-
3 CENT CODE.—No credit shall be allowed under this
4 section with respect to a principal residence the con-
5 struction of which is completed after the effective
6 date of the International Energy Conservation Code
7 in effect for the taxable year for which such credit
8 would otherwise be determined.

9 “(f) SPECIAL RULES.—For purposes of this section,
10 rules similar to the rules under paragraphs (4), (5), (6),
11 (7), and (8) of section 25D(e) and section 25C(e)(2) shall
12 apply.

13 “(g) BASIS ADJUSTMENTS.—For purposes of this
14 subtitle, if a credit is allowed under this section with re-
15 spect to any expenditure with respect to any property, the
16 increase in the basis of such property which would (but
17 for this subsection) result from such expenditure shall be
18 reduced by the amount of the credit so allowed.

19 “(h) ELECTION NOT TO CLAIM CREDIT.—This sec-
20 tion shall not apply to a taxpayer for any taxable year
21 if such taxpayer elects to have this section not apply for
22 such taxable year.

23 “(i) TERMINATION.—This section shall not apply
24 with respect to any costs paid or incurred after December
25 31, 2013.”.

1 (b) CONFORMING AMENDMENTS.—

2 (1) Section 26(a)(1) of the Internal Revenue
3 Code of 1986 is amended by inserting “25E,” after
4 “25D”.

5 (2) Section 1016(a) of such Code is amended
6 by striking “and” at the end of paragraph (36), by
7 striking the period at the end of paragraph (37) and
8 inserting “, and”, and by adding at the end the fol-
9 lowing new paragraph:

10 “(38) to the extent provided in section
11 25E(g).”.

12 (3) Section 6501(m) of such Code is amended
13 by inserting “25E(h),” after “section”.

14 (4) The table of sections for subpart A of part
15 IV of subchapter A chapter 1 of such Code is
16 amended by inserting after the item relating to sec-
17 tion 25D the following new item:

“Sec. 25E. Performance based energy improvements.”.

18 (c) EFFECTIVE DATE.—The amendments made by
19 this section shall apply to amounts paid or incurred in tax-
20 able years beginning after December 31, 2010.

○