A Message from the Administrator

Welcome to this 80th Anniversary Edition of Informational Publication 100-1 — a convenient reference guide to the Rural Electrification Act of 1936, as amended. The original Executive Order that inaugurated our longstanding contribution to financing rural America's electric and telecommunication infrastructure was signed on May 11, 1935. Here at the Rural Utilities Service, the successor agency to the Rural Electrification Administration, we are proud of our historical contribution and embrace the challenges presented by rural America's future infrastructure needs.

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United States Department of Agriculture
Rural Development

Informational Publication 100-1

Rural Electrification Act of 1936
With Amendments as Approved through February 7, 2014

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[7 U.S.C. §§ 901-950bb-2]
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CHRONOLOGY

1935 The Rural Electrification Administration (REA) was created by Executive Order 7037 of May 11 under authority of the Emergency Relief Appropriation Act of 1935, approved April 8, 1935 (49 Stat. 115).

1936 Statutory provision for the agency was made in the Rural Electrification Act of 1936 (Rural Electrification Act), approved May 20 (49 Stat. 1363, 7 U.S.C. § 901 *et seq*.).

1938 Title IV of the Work Relief and Public Works Appropriation Act of 1938 approved June 21 ("Rural Electrification Act of 1938," 52 Stat. 818) authorized further borrowing from the Reconstruction Finance Corporation and added a requirement that borrowers from REA agree to use materials and supplies produced in the United States.

1939 REA became part of the Department of Agriculture under Reorganization Plan 11, effective July 1.

1944 Title V of the Department of Agriculture Organic Act of 1944, approved September 21 (58 Stat. 739, 7 U.S.C. §§ 903-905, 915) liberalized the terms of REA loans and removed the time limitation from its lending program.

On December 23, the Rural Electrification Act was further amended to authorize REA to refinance certain rural electrification obligations owed to the Tennessee Valley Authority (58 Stat. 925; 7 U.S.C. § 904).

1947 The Department of Agriculture Appropriation Act, 1948, approved July 30 (61 Stat. 546; 7 U.S.C. § 903) further amended the Rural Electrification Act by transferring from the Reconstruction Finance Corporation to the Secretary of the Treasury the authority to make loans to REA.

1948 On June 29, the Rural Electrification Act was again amended to authorize REA to refinance certain additional rural electrification obligations owed to the Tennessee Valley Authority (62 Stat. 1070; 7 U.S.C. § 904).

1949 On October 28, the Rural Electrification Act was further amended to authorize REA to make loans for the purpose of furnishing and improving rural telephone service (63 Stat. 948; 7 U.S.C. §§ 901-914; 922-924).

1955 On June 15, the Rural Electrification Act was amended by revising the formula governing the allotment of electrification loan funds (69 Stat. 131; 7 U.S.C. §§ 903; 904).

1962 On October 23, the Rural Electrification Act was amended by broadening the definition of telephone service (76 Stat. 1140; 7 U.S.C. § 924).

1971 On May 7, the Rural Electrification Act was amended to establish a Rural Telephone Account and the Rural Telephone Bank (85 Stat. 29; 7 U.S.C. §§ 903; 922; 931; 932; 941-950b).

1972 On June 30, the Rural Electrification Act was amended to authorize the Secretary of the Treasury to purchase Rural Telephone Bank debentures (86 Stat. 390; 7 U.S.C. § 947).

1973 On May 11, the Rural Electrification Act was amended to establish a revolving fund for insured and guaranteed loans under Title III (87 Stat. 65; 7 U.S.C. §§ 903; 931-940; 945-948).

1975 On November 4, the Rural Electrification Act was amended to expressly authorize the assignment of REA guarantees to the extent provided in contract of guarantee, to clarify the incontestability of the Government guarantee, and to specifically require justification of budget estimates (89 Stat. 677; 7 U.S.C. §§ 906; 936; 938).

1976 On April 21, the "Fiscal Year Adjustment Act" amended the Rural Electrification Act to reflect necessary changes in laws because of the October-September fiscal year. (90 Stat. 378; 7 U.S.C. §§ 910, 946, 950).

On October 20, the Rural Electrification Act was amended to correct unintended inequities in the interest rate criteria and to transfer the unobligated balance of the 1973 loan authorizations to the Rural Electrification and Telephone Revolving Fund. (90 Stat. 2701; 7 U.S.C. §§ 931, 935).

1977 On August 4, the "Department of Energy Organization Act" added section 16 to title I, to require the Administrator, when making or guaranteeing generation or transmission loans, to consider general criteria published by the Secretary of Energy. (91 Stat. 608; 7 U.S.C. § 916).

1981 On August 13, the "Omnibus Budget Reconciliation Act of 1981" amended the Rural Electrification Act (1) to establish a 5 percent interest rate, with certain exceptions, for loans from the revolving fund, and (2) to require the Federal Financing Bank to make a loan under an REA guarantee if requested by a borrower with such a guarantee. (95 Stat. 379; 7 U.S.C. §§ 935-937).

On December 22, the "Agriculture and Food Act of 1981" amended the Rural Electrification Act to extend for another 10 years the authorization for Federal stock purchases in the Rural Telephone Bank. (95 Stat. 1347; 7 U.S.C. § 946).

1986 On October 21, the "Omnibus Budget Reconciliation Act of 1986" amended the Rural Electrification Act to authorize the prepayment of certain loans made by the Federal Financing Bank and guaranteed by the REA. The Act further provides for sale or prepayment of direct or insured loans by the borrower through September 30, 1987. (100 Stat. 1875; 7 U.S.C. § 936a).

On October 30, an act entitled "Joint Resolution making continuing appropriations for the fiscal year 1987, and for other purposes" amended the Rural Electrification Act to establish a privatization demonstration program to allow electric and telephone borrowers under the Rural Electrification Act to prepay with private capital all their loans guaranteed or otherwise made by and through the REA providing certain conditions are met. (100 Stat. 3341-333; 7 U.S.C. § 940a) NOTE: Legislation that enacted this amendment provides that its provisions "shall apply only to the rural electrification program in the State of Alaska". (100 Stat. 3341-352).

1987 On December 22, the "Omnibus Budget Reconciliation Act of 1987" amended the Rural Electrification Act to authorize the prepayment of certain loans made by the Federal Financing Bank and guaranteed by the REA and amended the Rural Electrification Act to establish a cushion of credit payments program including a loan and grant initiative for rural economic development; permit use of funds by borrowers not in excess of 15 percent of their total utility plant; authorize the prepayment of Rural Telephone Bank loans during fiscal year 1988; and provide an interest rate reform for the Rural Telephone Bank. (101 Stat. 1330-20; 7 U.S.C. §§ 940b, 940c, 946, 948).

1990 On November 5, 1990, the "Omnibus Budget Reconciliation Act of 1990" amended the Rural Electrification Act to authorize insured loan levels for fiscal years 1991 through 1995 and established a new 90 percent guarantee loan program. Title XIII of OBRA 1990, also known as the "Federal Credit Reform Act of 1990," superseded the revolving loan fund legislative provisions for insured and guaranteed loans which had been in effect since 1973. (104 Stat. 1388; 7 U.S.C. § 940d).

On November 28, the "Rural Economic Development Act of 1990" amended the Rural Electrification Act to establish an Assistant Administrator for Economic Development, establish a rural development technical assistance unit, expand the powers and duties of REA Administrator in the area of rural economic development, establish a Rural Business Incubator Fund for the purpose of making grants and reduced interest loans, to promote business incubator loans. It also provided for distance learning and medical link programs. (104 Stat. 3979, 7 U.S.C. §§ 911a, 912, 917, 918, 924-928, 932, 935, 936, 936b, 939, 945, 946, 948, 950, 950aa, 950aa-1).

1991 On December 13, 1991, the "Food, Agriculture, Conservation, and Trade Act Amendments of 1991" made technical corrections to the Rural Electrification Act amendments resulting from the Rural Economic Development Act of 1990." (105 Stat. 1881; 7 U.S.C. §§ 911, 917, 950aa, 950aa-1).

1992. On October 21, 1992, the "Rural Electrification Administration Improvement Act of 1992" amended the Rural Electrification Act to authorize discounted prepayments by borrowers of direct or insured loans. (106 Stat. 2183; 7 U.S.C. §§ 936b(a), 936b(b)).

On October 28, 1992, the "Food, Agriculture, Conservation and Trade Act Amendments of 1990" was amended by the addition of a new section which established a special program for service areas applying for distance learning and medical link grants. (106 Stat. 4098; 7 U.S.C. §§ 950aaa-4, 950aaa-5).

1993 On August 10, 1993, the "Omnibus Budget Reconciliation Act of 1993" amended the Rural Electrification Act by adding section 306C on refinancing and prepayment of FFB loans. (107 Stat. 327; 7 U.S.C. § 936c).

On November 1, 1993, the "Rural Electrification Loan Restructuring Act of 1993" (RELRA) significantly amended the electric and telephone loan programs to authorize electric insured loans at a tax exempt equivalent interest rate and telephone insured loans at a government cost-of-money interest rate and increased the interest rate on hardship loans from two percent to five percent. RELRA authorized loans for purposes of demand side management. RELRA also provided that REA borrowers are eligible for water and sewer loans as well as other rural development assistance programs authorized by the "Consolidated Farm and Rural Development Act" (7 U.S.C. §§ 1921 *et seq*.). (107 Stat. 1356; 7 U.S.C. §§ 902, 904, 913, 918, 924(b), 935, 936c, 936d, 936e, 937, 939(a), 940d, 946, 948).

On December 8, 1993, the "North American Free Trade Agreement Implementation Act" amended the "Buy American" provision of the Rural Electrification Act to include Mexico and Canada. (107 Stat. 2129, 7 U.S.C. § 903 note.)

On December 17, 1993, the Rural Electrification Act was amended to clarify the scope of the regulatory oversight to be exercised by the Rural Electrification Administration with respect to certain borrowers. This amendment allowed borrowers whose net worth exceeded 110 percent of the outstanding principal balance on all loans made or guaranteed by REA to be exempt from certain REA operational controls. (107 Stat. 2342; 7 U.S.C. § 936e).

1994 On October 13, 1994, the Crop Insurance Reform and Department of Agriculture Reorganization Act of 1994 repealed the provision for an assistant administrator for rural development and directed authorities within the RE Act to the Secretary of Agriculture in lieu of the REA Administrator. (108 Stat. 3220; 7 U.S.C. 901-913, 915-916, 918, 922, 925-928, 931-936, 936a-936c, 936e, 937-938, 940, 940a-940d, 943-948, 950, 950b, 950aa, 950aa-1).

Also, the Rural Utilities Service was established to carry out the electric and telephone programs authorized by the RE Act and water and waste facility programs authorized by the Consolidated Farm and Rural Development Act. (108 Stat. 3219; 7 U.S.C. § 6942).

On November 2, 1994, a technical amendment to section 6 of the Act substituted "Committee on Agriculture, Nutrition and Forestry" in place of "Committee on Agriculture and Forestry." (108 Stat. 4581; 7 U.S.C. § 906).

1995 On December 21, 1995, the Federal Reports Elimination Act eliminated the requirement that the Comptroller General review determinations of the cost-of-money rate made by the Governor of the Telephone Bank. (109 Stat. 711; 7 U.S.C. § 948(b)(3)).

1996 On April 4, 1996, the Agriculture Reform Act (i) eliminated certain obsolete references in the RE Act, (ii) eliminated the authority for 2 percent loans, (iii) repealed authority for loans for wiring and plumbing, which authority had not been funded since 1969, (iv) eliminated the requirement for the Secretary to submit an annual report to Congress, (v) eliminated a provision allowing borrowers to determine the term of a telephone loan, and (vi) repealed authority for the Rural Business Incubator Fund. (110 Stat. 1149; 7 U.S.C. §§ 902-906, 908, 910, 912, 931, 932, 939, 940a, 946, 950aa, 950aa-1).

The Agriculture Reform Act, in an amendment to the Consolidated Farm and Rural Development Act, also gave authority to the Secretary to reduce debt for loan programs administered by the Rural Utilities Service. (110 Stat. 1128; 7 U.S.C. § 1981(b)(4)).

2000 On November 9, 2000, the Grain Standards and Warehouse Improvement Act of 2000 added section 19 to the RE Act. (114 Stat. 2058; 7 U.S.C. § 918a).

On December 21, 2000, the Launching Our Communities' Access to Local Television Act of 2000 authorized a program to facilitate access to signals of local television stations for households located in nonserved and underserved areas. (114 Stat. 2762, 2762A-128; 47 U.S.C. § 1101).

2001 On November 28, 2001, the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2002, authorized RUS to finance the acquisition of existing electric utility systems. (115 Stat. 738; 7 U.S.C. § 918b).

2002 On May 13, 2002, the Farm Security and Rural Investment Act of 2002 ("2002 Farm Bill") added title VI to the RE Act authorizing loans and guarantees for the construction, improvement and acquisition of broadband facilities in rural areas. (116 Stat. 415; 7 U.S.C. § 950bb).

The 2002 Farm Bill also authorized the Secretary to guarantee bonds or notes issued by eligible cooperative and other lenders. (116 Stat. 413; 7 U.S.C. § 940c-1).

The 2002 Farm Bill also authorized telephone loans for the purpose of expanding emergency 911 communications systems in rural areas. (116 Stat. 415; 7 U.S.C. § 940e).

2005 On August 4, 2005 the Board of Directors of the Rural Telephone Bank unanimously resolved to approve the liquidation and dissolution of the Rural Telephone Bank.

On November 10, 2005, the Agriculture, Rural Development, Food and Drug Administration and Related Agencies Appropriations Act, 2006, expanded eligibility for the rural economic development loan and grant program to include not-for-profit utilities that are eligible to be RE Act borrowers and also authorized the extension of the outside maturity date for Federal Financing Bank guaranteed loans. (119 Stat. 2120; 7 U.S.C. § 940f).

2006 On April 10, 2006 the Government's Class A stock in the Rural Telephone Bank was redeemed and on April 11, 2006, 90% of the Class B & C shareholders were paid, with all redemptions being completed by September 30, 2006.

2007 On December 14, 2007, the Senate passed its amended version of the House bill H.R. 2419 that authorized the Secretary to charge an upfront fee to cover the cost of loan guarantees. Prior to this legislative activity, the Office of Management and Budget had determined a subsidy rate should apply to loans funding electric base load generation. It was determined that legislative authorization was needed before RUS could impose a fee on borrowers to cover this cost. *(Senate Committee on Agriculture, Nutrition, and Forestry, Food and Security Act of 2007, Report on S. 2302 Together with Additional Views, S. REP. NO. 220, 110th Cong., 1st Sess. 160-161 (2007; see also Roll Call Vote No. 434 as reported in the Congressional Record at 153 CONG. REC. S15639 (2007)* and *Hearing to Review Electricity Reliability in Rural America before the Subcommittee on Conservation, Credit and Research, Committee on Agriculture, House of Representatives 110th Congress, Second Session, July 30, 2008, Serial No. 110-46, testimony of James Andrew.)*

2008 On June 18, 2008, the Food, Conservation, and Energy Act of 2008 ("2008 Farm Bill") modified the definition of rural to refer to an area that excludes a city or town of 20,000 or more; it grandfathered areas within the service area of a borrower that had an outstanding loan as of June 18. (122 Stat. 1664, 1957; 7 U.S.C. § 913).

The 2008 Farm Bill also authorized implementation of an initiative to identify and improve the availability of programs in substantially underserved trust areas. (122 Stat. 1664, 1957; 7 U.S.C. § 936f).

The 2008 Farm Bill also added section 317 of the RE Act which authorizes loans for electric generation from renewable energy resources for rural and non rural residents. (122 Stat. 1664, 1959; 7 U.S.C. § 940g).

2009 On February 17, 2009 the "Recovery Act" was passed, making supplemental appropriations for the Fiscal Year ending September 20, 2008, and for other purposes including the Broadband Initiatives Program. This stimulus funding sunsetted on September 30, 2010. (Public Law 111-5, 123 Stat. 115).

2014 On February 7, 2014 the Agricultural Act of 2014 ("2014 Farm Bill") authorized the Secretary to charge an upfront fee to cover the cost of loan guarantees. (128 Stat. 850; 7 U.S.C. § 905).

GUIDE TO PROVISIONS OF THE RURAL ELECTRIFICATION ACT OF 1936

TITLE I

SEC. 1	sets forth the title of the act as the "Rural Electrification Act of 1936."
SEC. 2	generally authorizes Secretary of Agriculture to make rural electrification and telephone loans, to investigate and publish reports on matters affecting the condition and progress of rural electrification and telephone service and to assist borrowers that implement conservation, energy efficiency and renewable energy programs.
SEC. 3	authorizes necessary appropriation levels.
SEC. 4	authorizes the Secretary of Agriculture to make rural electrification loans, specifies eligible borrowers, preferences, purposes, terms and conditions, security and self-liquidation requirements.
SEC. 5	authorizes the Secretary of Agriculture to charge a fee to cover the subsidy cost of loan guarantees
SEC. 6	authorizes appropriations of funds for administrative expenses.
SEC. 7	relates to acquisition and disposition by the Secretary of property securing loans; prohibits disposition of property acquired by borrowers with RUS loan funds, unless the Secretary approves, until loan is fully repaid.
SEC. 8	[repealed] this section related to making the Rural Electrification Act retroactively applicable to loans and contracts entered into prior to effective date of the Act (May 20, 1936).

SEC. 9 requires administration of Rural Electrification Act and selection of employees on non-partisan, nonpolitical basis.

SEC. 10 [repealed] this section required the Secretary to make an annual report to Congress.

SEC. 11 authorizes the Secretary to appoint officers and employees and to make certain administrative expenditures.

SEC. 11A [repealed] authorized the Secretary to appoint an Assistant Administrator for Economic Development and establish a technical assistance unit to provide advice to borrowers concerning community and economic development activities.

SEC. 12 empowers the Secretary to extend payment of loans with certain limitations.

SEC. 13 defines the terms "rural area", "farm", "person", "Territory" and "Secretary".

SEC. 14 technical "saving clause".

SEC. 15 *(See Selected Legislation, 7 U.S.C. § 915; there is no section 15 of the RE Act.)*

SEC. 16 requires the Secretary when making or guaranteeing generation or transmission loans to consider general criteria published by the Secretary of Energy.

SEC. 17 prohibits the Secretary from conditioning rural development program assistance on the receipt of electric service from any particular utility or supplier.

SEC. 18 removes consideration of borrowers' general funds level from loan making and advance of funds decision and provides for the use of borrower-funded consultants to facilitate timely action on applications in certain circumstances.

SEC. 19 authorizes the Secretary to make grants and loans for energy facilities in communities with extremely high residential home energy costs.

TITLE II

SEC. 201 authorizes the Secretary to make loans for furnishing and improving rural telephone service; specifies eligible borrowers, terms and conditions, purposes, preferences generally, preferences during initial year of program, area coverage requirements, security and self-liquidation requirements; authorizes financing of nonrural facilities under certain conditions; authorizes limited refinancing of existing indebtedness; requires applicants to comply with State certification requirements, and, where such requirements are inapplicable, specifies the determination which the Secretary is required to make.

SEC. 202 recognizes jurisdiction of State regulatory bodies.

SEC. 203 defines the terms "telephone service" and "rural area".

SEC. 204 limits loan feasibility criteria.

SEC. 205 allows borrowers to invest in rural development projects, and defines "qualified telephone borrower."

SEC. 206 discusses general duties and prohibitions of the Secretary and Governor.

SEC. 207 sets time limitations for acting on telephone loan applications.

TITLE III

SEC. 301 establishes in the U.S. Treasury a "Rural Electrification and Telephone Revolving Fund" (fund) and specifies the existing and future assets to be included in the fund.

SEC. 302 sets forth the liabilities of the fund, outlines the exclusive purposes for which the assets of the fund are available and requires the maintenance of an electric account and a telephone account within the fund.

SEC. 303 requires that moneys in the fund shall remain on deposit in the United States Treasury until required for disbursement.

SEC. 304 sets forth the financial transactions for which the fund is authorized, including borrowings from the Treasury and the sale of borrowers' notes or interests in them to the Treasury or the private money market.

SEC. 305 authorizes the Secretary to make insured electric loans at (1) a hardship interest rate of 5 percent or (2) a municipal tax exempt equivalent rate, and insured telephone loans at (1) a hardship interest rate of 5 percent or (2) a cost of money interest rate equal to the U.S. Treasury cost of funds.

SEC. 306 authorizes the Secretary to guarantee loans made by other lending agencies and to accommodate or subordinate liens or mortgages; requires the Federal Financing Bank to make a loan, guaranteed by RUS, when requested by a borrower for whom a RUS guarantee has been approved.

SEC. 306A authorizes the prepayment of certain loans made by the Federal Financing Bank and guaranteed by RUS and requires the Secretary to establish eligibility criteria based on greatest need of benefits associated with prepayment to cooperative borrowers.

SEC. 306B provides that RUS insured loans may be prepaid at a discount under certain circumstances.

SEC. 306C provides that FFB guaranteed loans may be refinanced or prepaid and limits the penalty which might otherwise be assessed.

SEC. 306D provides the circumstances under which a default by a wholesale power borrower will not affect the eligibility for loans, loan guarantees, and lien accommodations of distribution borrowers that purchase power from said wholesale power borrower.

SEC. 306E provides that certain borrowers who achieve certain financial benchmarks will be relieved of certain RUS administrative or operational controls.

SEC. 306F authorizes the Secretary to implement initiatives to identify and improve the availability of programs in communities in substantially underserved trust areas.

SEC. 307 authorizes the Secretary to request that a borrower obtain other financing, concurrently with an insured loan at the standard rate, under specified conditions.

SEC. 308 provides that any contract of insurance or guarantee made under Title III shall be supported by the full faith and credit of the United States.

SEC. 309 provides that loans made from or insured through the fund under Title III shall be for the same purposes and on the same terms and conditions as those provided for loans under Titles I and II of the Rural Electrification Act, except as otherwise provided in sections 303 through 308.

SEC. 310 authorizes the Secretary, at the request of the borrower, to refinance any loans made for rural electric and telephone facilities under the Consolidated Farm and Rural Development Act.

SEC. 311 [repealed] this section established a privatization demonstration program for electric and telephone RUS borrowers with outstanding RUS-guaranteed Federal Financing Bank (FFB) loans and provided an option to such borrowers to prepay all outstanding RUS-guaranteed FFB loans, without a prepayment premium. (NOTE: Legislation that enacted this section provided that its provisions "shall apply only to the rural electrification program in the State of Alaska".)

SEC. 312 provides that a borrower may invest its own funds or make loans or guarantees, not in excess of 15 percent of its total utility plant.

SEC. 313 establishes a cushion of credit payments program and authorizes the establishment of a rural economic development subaccount using the funds so received to provide grants or zero interest loans for the purpose of promoting rural economic development and job creation projects.

SEC. 313A authorizes guarantees of bonds and notes issued by eligible cooperative and other lenders.

SEC. 314 establishes authorization levels for rural electric and telephone insured loans for fiscal years 1991-1995 and authorizes new 90 percent guarantee loan program.

SEC. 315 authorizes telephone loans for expanding emergency 911 communications systems in rural areas.

SEC. 316 authorizes the extension of guarantees for Federal Financing Bank loans where both USDA and the FFB mutually agree to extend the term of the FFB loan.

SEC. 317 authorizes loans for generation from renewable sources for resale to rural and non-rural residents and provides that the interest rate for such loans shall be equal to the average tax exempt municipal bond rate of similar maturities.

SEC. 318 requires the Secretary to review bonding requirements for all programs administered by the Rural Utilities Service.

TITLE IV

SEC. 401 establishes Rural Telephone Bank (telephone bank) as a body corporate and an instrumentality of the United States, to obtain supplemental funds from non-Federal sources and utilizes them in making loans, operating on self-sustaining basis to extent practicable.

SEC. 402 sets forth general powers of telephone bank.

SEC. 403 lists special provisions governing telephone bank as United States agency until conversion of ownership, control and operation.

SEC. 404 makes a designee of the Secretary Governor of telephone bank until conversion of ownership, control and operation.

SEC. 405 provides for board of directors of telephone bank and sets forth procedures for its selection and selection of Chairperson of the Board.

SEC. 406 provides for capitalization of telephone bank and establishes classes of stock to be issued.

SEC. 407 authorizes and limits borrowing by telephone bank and describes status of debentures.

SEC. 408 authorizes lending by telephone bank and establishes restrictions on telephone bank loans.

SEC. 409 makes any receipts of telephone bank available for all its obligations and expenditures.

SEC. 410 provides for conversion of ownership, control and operation of telephone bank when specified amount of Class A stock has been retired.

SEC. 411 sets forth rights of stockholders on liquidation or dissolution of telephone bank.

SEC. 412 prohibits a section 201 loan to a borrower having net worth in excess of 20% of assets in preceding year unless the Secretary finds it cannot obtain the loan from the telephone bank or other reliable sources on reasonable terms.

TITLE V

SEC. 501 authorizes RUS to provide technical advice and assistance to borrowers utilizing the authority under section 312 to engage in rural economic development activity.

SEC. 502 [repealed] this section established a Rural Business Incubator fund, its uses, eligibility, and funding.

TITLE VI

SEC. 601 authorizes loans and guarantees for the construction, improvement and acquisition of broadband service in eligible rural communities.

SEC. 602 requires the Secretary to designate an entity to serve as the National Center for Rural Telecommunications Assessment.

SEC. 603 provides that the Secretary shall establish a pilot program to be known as the "Rural Gigabit Network Pilot Program" and related appropriation authority.

RURAL ELECTRIFICATION ACT OF 1936

With Amendments as Approved through February 7, 2014

[U.S. Code, Title 7, Chap. 31]

AN ACT

To provide for rural electrification, and for other purposes.

TITLE I-RURAL ELECTRIFICATION

SEC. 1. SHORT TITLE. —This Act may be cited as the "Rural Electrification Act of 1936".

[May 20, 1936, ch. 432, Title I, §1, 49 Stat. 1363; 1939 Reorg. Plan No. II, §5, eff. July 1, 1939, 4 F.R. 2732, 53 Stat. 1434; Oct. 28, 1949, Public Law 423, ch. 776, §2, 63 Stat. 948; October 13, 1994, Public Law 103-354, Title II, §235(a)(1), 108 Stat. 3220; 7 U.S.C. § 901.] (NOTE: Provisions of this section that prescribed the basic annual compensation of the Administrator were omitted to conform to the provisions of the Federal Executive Salary Schedule. See section 2210 *et seq.* of Title 5, Executive Departments and Government Officers and Employees.)

SEC. 2. GENERAL AUTHORITY OF THE SECRETARY OF AGRICULTURE.

(a) LOANS.—The Secretary of Agriculture (referred to in this Act as the "Secretary") is authorized and empowered to make loans in the several States and Territories of the United States for rural electrification and for the purpose of furnishing and improving electric and telephone service in rural areas, as provided in this Act, and for the purpose of assisting electric borrowers to implement demand side management, energy efficiency and energy conservation programs, and on-grid and off-grid renewable energy systems.

(b) INVESTIGATIONS AND REPORTS.—The Secretary may make, or cause to be made, studies, investigations, and reports regarding matters, including financial, technological, and regulatory matters, affecting the condition and progress of electric, telecommunications, and economic development in rural areas, and publish and disseminate information with respect to the matters.

[May 20, 1936, ch. 432, Title I, §2, 49 Stat. 1363; Oct. 28, 1949, Public Law 423, ch. 776, §2, 3, 63 Stat. 948; Nov. 1, 1993, Public Law 103-129, §2(c)(1), 107 Stat. 1363; October 13, 1994, Public Law 103-354, Title II, §235(a)(2), (13), 108 Stat. 3220, 3221; Apr. 4, 1996, Public Law 104-127, Title VII, §771, 110 Stat. 1149; May 22, 2008, Public Law 110-234, Title VI, §6101, 122 Stat. 1195; June 18, 2008, Public Law 110-246, §4(a), Title VI, § 6101, 122 Stat. 1664, 1956; 7 U.S.C. § 902.]

SEC. 3. AUTHORIZATION OF APPROPRIATIONS. — There are authorized to be appropriated such sums as are necessary to carry out this Act.

[May 20, 1936, ch. 432, Title I, §3, 49 Stat. 1364; June 21, 1938, ch. 554, Title IV, §401, 52 Stat. 818; Sept. 21, 1944, ch. 412, Title V, §§501, 503, 504, 58 Stat. 739, 740; July 30, 1947, ch. 356, Title I, §1, 61 Stat. 546; Oct. 28, 1949, ch. 776, §§2, 4(a)-(d), 63 Stat. 948; June 15, 1955, ch. 139, §1, 69 Stat. 131; May 7, 1971, Public Law 92-12 §3(a), 85 Stat. 37; May 11, 1973, Public Law 93-32, §3, 87 Stat. 70; Oct. 13, 1994, Public Law 103-354, Title II, §235(a)(3), (13), 108 Stat. 3220, 3221; Apr. 4, 1996, Public Law 104-127, Title VII, §772(a), 110 Stat. 1149; 7 U.S.C. § 903.]

SEC. 4. LOANS BY SECRETARY OF AGRICULTURE FOR ELECTRICAL PLANTS AND TRANSMISSION LINES, PREFERENCES; CONSENT OF STATE AUTHORITIES. —

(a) The Secretary is authorized and empowered, from the sums hereinbefore authorized, to make loans for rural electrification to persons, corporations, States, Territories, and subdivisions and agencies thereof, municipalities, peoples' utility districts and cooperative, nonprofit, or limited-dividend associations, organized under the laws of any State or Territory of the United States, for the purpose of financing the construction and operation of generating plants, electric transmission and distribution lines or systems for the furnishing and improving of electric service to persons in rural areas, including by assisting electric borrowers to implement demand side management, energy efficiency and energy conservation programs, and on-grid and off-grid renewable energy systems, and loans, from funds available under section 3 of this Act, to cooperative associations and municipalities for the purpose of enabling said cooperative associations, and municipalities to the extent that such indebtedness was incurred with respect to electric transmission and distribution lines or systems or portions thereof serving persons in rural areas, to discharge or refinance long-term debts owed by them to the Tennessee Valley Authority on account of loans made or credit extended under the terms of the Tennessee Valley Authority Act of 1933, as amended: Provided, That the Secretary, in making such loans, shall give preference to States, Territories, and subdivisions and agencies thereof, municipalities, peoples' utility districts, and cooperative, nonprofit, or limited-dividend associations, the projects of which comply with the requirements of this Act.

(b) Such loans shall be on such terms and conditions relating to the expenditure of the moneys loaned and the security therefor as the Secretary shall determine and may be made payable in whole or in part out of the income, except that no loan for the construction, operation, or enlargement of any generating plant shall be made unless the consent of the State authority having jurisdiction in the premises is first obtained.

(c) DIRECT LOANS.—

(1) DIRECT HARDSHIP LOANS.—Direct hardship loans under this section shall be for the same purposes and on the same terms and conditions as hardship loans made under section 305(c)(1).

(2) OTHER DIRECT LOANS.—All other direct loans under this section shall bear interest at a rate equal to the then current cost of money to the Government of the United States for loans of similar maturity, plus 1/8 of 1 percent.

(d) Loans under this section shall not be made unless the Secretary finds and certifies that in his judgment the security therefor is reasonably adequate and such loan will be repaid within the time agreed.

[May 20 1936, ch. 432, Title I, §4, 49 Stat. 1365; Sept. 21, 1944, ch. 412, Title V, §§502(a), 503, 58 Stat. 739, 740; Dec. 23, 1944, ch. 725, 58 Stat. 925; June 29, 1948, Ch. 703, 62 Stat. 1070; Oct. 28, 1949, ch. 776, §§2, 4(e), 63 Stat. 948; June 15, 1955, ch. 139, §2, 69 Stat. 132; Nov. 1, 1993, Public Law 103-129, §2(c)(2), 107 Stat. 1363; Oct. 13, 1994, Public Law 103-354, Title II, Subtitle C, §235(a)(13), 108 Stat. 3221; Apr. 4, 1996, Public Law 104-127, Title VII, §773, 110 Stat. 1149, May 22, 2008, Public Law 110-234, Title VI, §§6101, 6102(a), 122 Stat. 1195; June 18, 2008, Public Law 110-246, §4(a), Title VI, §§ 6101, 6102, 122 Stat. 1664, 1956; 7 U.S.C. § 904.]

SEC. 5. FEES FOR CERTAIN LOAN GUARANTEES

(a) IN GENERAL.—For electrification baseload generation loan guarantees, the Secretary shall, at the request of the borrower, charge an upfront fee to cover the costs of the loan guarantee.

(b) FEE.—The fee described in subsection (a) for a loan guarantee shall be equal to the costs of the loan guarantee (within the meaning of section 502(5)(C) of the Federal Credit Reform Act of 1990 (2 U.S.C. § 661a(5)(C)).

(c) LIMITATION.—Funds received from a borrower to pay the fee described in this section shall not be derived from a loan or other debt obligation that is made or guaranteed by the Federal Government.

[This section originally related to loans for electrical and plumbing equipment and specified persons eligible for such loans. This earlier text was repealed on April 4, 1996. Section 5 was next used when the current text was signed into law on Feb. 7, 2015.]

[May 20, 1936, ch. 432, Title I, §5, 49 Stat. 1365; Sept. 21, 1944, ch. 412, Title V, §502(b), 58 Stat. 739; Oct. 28, 1949, ch. 776, §2, 63 Stat. 948; Oct. 13, 1994, Public Law 103-354, Title II, §235(a)(13), 108 Stat. 3221; Apr. 4, 1996, Public Law 104-127, Title VII, §774(a), 110 Stat. 1150; Feb. 7, 2014, Public Law 113-79, Title VI, § 6101, 128 Stat. 850; 7 U.S.C. § 905.]

SEC. 6. FUNDING FOR ADMINISTRATIVE EXPENSES. — For the purpose of administering this Act and for the purpose of making the studies, investigations, publications, and reports herein provided for, there is hereby authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, such sums as shall be necessary.

[May 20, 1936, ch. 432, Title I, §6, 49 Stat. 1365; Oct. 28, 1949, ch. 776, §2, 63 Stat. 948; Nov. 4, 1975, Public Law 94-124, §3, 89 Stat. 677; S. Res. 4, Feb. 4, 1977; Nov. 2, 1994, Public Law 103-437, §4(a)(3), 108 Stat. 4581; Apr. 4, 1996, Public Law 104-127, Title VII, §775, 110 Stat. 1150; 7 U.S.C. § 906.]

SEC. 7. ACQUISITION OF PROPERTY PLEDGED FOR LOANS; DISPOSITION, SALE OF PLEDGED PROPERTY BY BORROWER. —The Secretary is authorized and empowered to bid for and purchase at any foreclosure or other sale, or otherwise to acquire, property pledged or mortgaged to secure any loan made pursuant to this Act; to pay the purchase price and any costs and expenses incurred in connection therewith from the sums authorized in section 3 of this Act; to accept title to any property so purchased or acquired in the name of the United States of America; to operate or lease such property for such period as may be deemed necessary or advisable to protect the investment therein, but not to exceed five years after the acquisition thereof, and to sell such property so purchased or acquired, upon such terms and for such consideration as the Secretary shall determine to be reasonable. No borrower of funds under section 4 or section 201 shall, without the approval of the Secretary, sell or dispose of its property, rights, or franchises, acquired under the provisions of this Act, until any loan obtained from the Rural Electrification Administration, including all interest and charges, shall have been repaid.

[May 20, 1936, ch. 432, Title I, §7, 49 Stat. 1365; Oct. 28, 1949, ch. 776, §§2, 4(f), 63 Stat. 948; Oct. 13, 1994, Public Law 103-354, Title II, §235(a)(13), 108 Stat. 3221; 7 U.S.C. § 907.]

SEC. 8. [Repealed April 4, 1996].

[This section related to the transfer of functions of the Rural Electrification Administration established by Executive Order Number 7037, dated May 11, 1935, to the Administrator authorized to be appointed by the Rural Electrification Act of 1936.]

[May 20, 1936, ch. 432, Title I, §8, 49 Stat. 1366; Oct. 28, 1949, ch. 776, §2, 63 Stat. 948; Oct. 13, 1994, Public Law 103-354, Title II, §235(a)(4), 108 Stat. 3221; Apr. 4, 1996, Public Law 104-127, Title VII, §776, 110 Stat. 1150; 7 U.S.C. § 908.]

SEC. 9. ADMINISTRATION ON NONPOLITICAL BASIS, DISMISSAL OF OFFICERS OR EMPLOYEES FOR VIOLATING PROVISIONS. —
This Act shall be administered entirely on a nonpartisan basis, and in the appointment of officials the selection of employees, and in the

promotion of any such officials, or employees no political test or qualification shall be permitted or given consideration, but all such appointments and promotions shall be given and made on the basis of merit and efficiency. If the Secretary herein provided for is found by the President of the United States to be guilty of a violation of this section, he shall be removed from office by the President, and any appointee or selection of officials or employees made by the Secretary who is found guilty of a violation of this Act shall be removed by the Secretary.

[May 20, 1936, ch. 432, Title I, §9, 49 Stat. 1366; Oct. 28, 1949, ch. 776, §2, 63 Stat. 948; Oct. 13, 1994, Public Law 103-354, Title II, §235(a)(13), 108 Stat. 3221; 7 U.S.C. § 909.]

SEC. 10. [Repealed April 4, 1996].

[This section provided for an annual report to be presented to the Congress].

[May 20, 1936, ch. 432, Title I, §10, 49 Stat. 1366; Oct. 28, 1949, ch. 776, §2, 63 Stat 948; April 21, 1976, Public Law 94-273, §11(1), 90 Stat. 378; Oct. 13, 1994, Public Law 103-354, Title II, Subtitle C, §235(a)(13), 108 Stat. 3221; Apr. 4, 1996, Public Law 104-127, Title VII, Subtitle C, §777, 110 Stat. 1150; 7 U.S.C. § 910.]

SEC. 11. ACCEPTANCE OF SERVICES OF FEDERAL OR STATE OFFICERS; APPLICATION OF CIVIL SERVICE LAWS, EXPENDITURES FOR SUPPLIES AND EQUIPMENT. —In order to carry out the provisions of this Act the Secretary may accept and utilize such voluntary and uncompensated services of Federal, State, and local officers and employees as are available, and he may without regard to the provisions of civil-service laws applicable to officers and employees of the United States appoint and fix the compensation of attorneys, engineers, and experts, and he may, subject to the civil-service laws, appoint such other officers and employees as he may find necessary and prescribe their duties. The Secretary is authorized, from sums appropriated pursuant to section 6, to make such expenditures (including expenditures for personal services, supplies and equipment; lawbooks and books of reference, directories and periodicals, travel expenses; rental at the seat of government and elsewhere, the purchase operation or maintenance of passenger-carrying vehicles; and printing and binding) as are appropriate and necessary to carry out the provisions of this Act.

[May 20, 1936, ch. 439, Title I, §11, 49 Stat. 1366; Oct. 28, 1949, ch. 776, §2, 63 Stat. 948; October 13, 1994, Public Law 103-354, Title II, § 235(a)(13), 108 Stat. 3221; 7 U.S.C. § 911.]

SEC. 11A. [Repealed Oct. 13, 1994].

[This section provided for an Assistant Administrator for Economic Development].

[Nov. 28, 1990, Public Law 101-624, Title XXIII, §2350, 104 Stat. 4037; Dec. 13, 1991, Public Law 102-237, Title VII, §703(a), 105 Stat. 1881; Oct. 13, 1994, Public Law 103-354, Title II, §235(a)(5), 108 Stat. 3221; 7 U.S.C. § 911a.]

SEC. 12. EXTENSION OF TIME FOR REPAYMENT OF LOANS. — (a) The Secretary is authorized and empowered to extend the time of payment of interest or principal of any loans made by the Secretary pursuant to this Act, Provided however, That with respect to any loan made under section 4 or section 201, the payment of interest or principal shall not be extended more than five years after such payment shall have become due.

(b)(l) Subject to limitations established in appropriations Acts, the Secretary shall permit any borrower to defer the payment of principal and interest on any insured or direct loan made under this Act under circumstances described in this subsection, notwithstanding any limitation contained in subsection (a), except that such deferment shall not be permitted based on the determination of the Secretary of the financial hardship of the borrower.

(2) (A) In the case of deferments made to enable the borrower to provide financing to local businesses, the deferment shall be repaid in equal installments, without the accrual of interest, over the 60-month period beginning on the date of the deferment, and the total amount of such payments shall be equal to the amount of the payment deferred.

(B) In the case of deferments made to enable the borrower to provide community development assistance, technical assistance to businesses, and for other community, business, or economic development projects not included under subparagraph (A), the deferment shall be repaid in equal installments, without the accrual of interest, over the 120-month period beginning on the date of the deferment, and the total amount of such payments shall be equal to the amount of the payment deferred.

(3) (A) A borrower may defer its debt service payments only in an amount equal to an investment made by such borrower as described in paragraph (2).

(B) The amount of the deferment shall not exceed 50 percent of the total cost of a community or economic development project for which a deferment is provided under this subsection.

(C) The total amount of deferments under this subsection during each of the fiscal years 1990 through 1993 shall not exceed 3 percent of the total payments due during such fiscal year from all borrowers on direct and insured loans made under this Act and shall not exceed 5 percent of such total payments due in each subsequent fiscal year.

(D) At the time of a deferment, the borrower shall make a payment to a cushion of credit account established and maintained pursuant to section 313 in an amount equal to the amount of the payment deferred. The balance of such account shall not be reduced by the borrower below the level of the unpaid balance of the payment deferred. Subject to limitations established in annual appropriations Acts, such cushion of credit amounts and any other cushion of credit and advance payments of any borrower shall be included in the interest differential calculation under section 313(b) (2) (A).

(4) The Secretary shall undertake all reasonable efforts to permit the full amount of deferments authorized by this subsection during each fiscal year.

(c) DEFERMENT OF PAYMENTS ON LOANS—

(l) IN GENERAL.—The Secretary shall allow borrowers to defer payment of principal and interest on any direct loan made under this Act to enable the borrower to make loans to residential, commercial, and industrial consumers—

(A) to conduct energy efficiency and use audits; and

(B) to install energy efficient measures or devices that reduce the demand on electric systems.

(2) AMOUNT.—The total amount of a deferment under this subsection shall not exceed the sum of the principal and interest on

the loans made to a customer of the borrower, as determined by the Secretary.

(3) TERM.—The term of a deferment under this subsection shall not exceed 60 months.

[May 20, 1936, ch. 432, Title I, §12, 49 Stat. 1366; Oct. 28, 1949, ch. 776, §§2, 4(f), 63 Stat. 948; Nov. 28, 1990, Public Law 101-624, Title XXIII, §2344, 104 Stat. 4028; Oct. 13, 1994, Public Law 103-354, Title II, §235(a)(13), 108 Stat. 3221; Apr. 4, 1996, Public Law 104-127, Title VII, §774(b), 110 Stat. 1150; May 22, 2008, Public Law 110-234, Title VI, §6103, 122 Stat. 1195; June 18, 2008, Public Law 110-246, §4(a), Title VI, § 6103, 122 Stat. 1664, 1956; 7 U.S.C. § 912.]

SEC. 13. DEFINITIONS.—

In this Act:

(1) FARM.—The term "farm" means a farm, as defined by the Bureau of the Census.

(2) 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).

(3) RURAL AREA.—Except as provided otherwise in this Act, the term "rural area" means the farm and nonfarm population of—

(A) any area described in section 343(a)(13)(C) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1991(a)(13)(C)): and

(B) any area within a service area of a borrower for which a borrower has an outstanding loan made under titles I through V as of the date of enactment of this paragraph.

(4) TERRITORY.—The term "territory" includes any insular possession of the United States.

(5) SECRETARY.—The term "Secretary" means the Secretary of Agriculture.

[May 20,1936, ch. 432, Title I, §13, 49 Stat. 1367; Oct. 28,1949, ch. 776, §2, 63 Stat. 948; Nov. 1, 1993, Public Law 103-129, §2(c)(3), 107 Stat. 1363; Oct. 13, 1994, Public Law 103-354, Title II, §235(a)(6), 108 Stat. 3221; May 22, 2008, Public Law 110-234, Title VI, §6104, 122 Stat. 1196; June 18, 2008, Public Law 110-246, §4(a), Title VI, § 6104, 122 Stat. 1664, 1957; 7 U.S.C. § 913.]

SEC. 14. SEPARABILITY.—If any provision of this Act, or the application thereof to any person or circumstances, is held invalid, the remainder of the Act and the application of such provision to other persons or circumstances shall not be affected thereby.

[May 20, 1936, ch. 432, Title I, §14, 49 Stat. 1367; Oct. 28, 1949, ch. 776 §2, 63 Stat. 948; 7 U.S.C. § 914.]

SEC. 15. [There is no Section 15 of the RE Act - See 7 U.S.C. 915 under "Selected Legislation]

SEC. 16. CRITERIA FOR LOANS.—In order to insure coordination of electric generation and transmission financing under this Act with the national energy policy, the Secretary in making or guaranteeing loans for the construction, operations, or enlargement of generating plants or electric transmission lines or systems shall consider such general criteria consistent with the provisions of this Act as may be published by the Secretary of Energy.

[Aug. 4, 1977, Public Law 95-91, Title VII, §709(f), 91 Stat. 608; Oct. 13, 1994, Public Law 103-354, Title II, §235(a)(13), 108 Stat. 3221; 7 U.S.C. § 916.]

SEC. 17. PROHIBITION ON RESTRICTING WATER AND WASTE FACILITY SERVICES TO ELECTRIC CUSTOMERS.

(a) PROHIBITION. Assistance under any rural development program administered by the Secretary or any agency of the Department of Agriculture shall not be conditioned on any requirement that the recipient of the assistance accept or receive electric service from any particular utility, supplier, or cooperative.

(b) ENSURING COMPLIANCE. The Secretary shall establish, by regulation, adequate safeguards to ensure that assistance under any rural development program is not subject to such a condition. The safeguards shall include periodic certifications and audits, and appropriate measures and sanctions against any person violating, or attempting to violate subsection (a).

(c) DEFINITION OF RURAL DEVELOPMENT PROGRAMS.—In this section, the term "rural development program" means the following:

(1) Sections 304(b), 306, 306A, 306C, 306D, 310B, and 375 and subtitle E of the Consolidated Farm and Rural Development Act (7 U.S.C. 1924(b), 1926, 1926a, 1926c, 1926d, 1932).

(2) Subtitle G of title XVI and sections 2281, 2333, and 2381 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5901-5908, 5177a, 950aaa-2, and 3125b).

(3) Subtitle C of title IX of the Food, Agriculture, Conservation, and Trade Act Amendments of 1991 (Public Law 102-237; 7 U.S.C. 5930 note).

(4) Section 1323(b) of the Food Security Act of 1985 (Public Law 99-198; 7 U.S.C. 1932 note).

(5) Title V and section 603(c) of the Rural Development Act of 1972 (7 U.S.C. 2661-2669 and 2204a(c)).

(6) Sections 5 and 311 and title IV of this Act (7 U.S.C. 905, 940a, and 941-950b).

(d) REGULATIONS. Not later than 60 days after April 4, 1996, the Secretary shall issue final regulations to ensure compliance with subsection (a) of this section.

[Apr. 4, 1996, Public Law 104-127, Title VII, §778, 110 Stat. 1150; 7 U.S.C. § 917.]

A prior section 17, as added Nov. 28, 1990, Public Law 101-624, Title XXIII, §2343, 104 Stat. 4027, related to the establishment of a technical assistance unit to provide advice and technical assistance to electric and telephone borrowers. This earlier section 17 was repealed effective Dec. 13, 1991 by Public Law 102-237, Title VII, §703(b), 105 Stat. 1881.

SEC. 18. GENERAL PROHIBITIONS.

(a) NO CONSIDERATION OF BORROWER'S LEVEL OF GENERAL FUNDS.—The Secretary and the Governor of the telephone bank shall not deny or reduce any loan or loan advance under this Act based on a borrower's level of general funds.

(b) LOAN ORIGINATION FEES.—The Secretary and the Governor of the telephone bank may not charge any fee or charge not expressly provided in this Act in connection with any loan made or guaranteed under this Act.

(c) CONSULTANTS.

(1) IN GENERAL.—To facilitate timely action on applications by borrowers for financial assistance under this Act and for approvals required of the Rural Electrification

Administration pursuant to the terms of outstanding loan or security instruments or otherwise, the Secretary may use consultants funded by the borrower, paid for out of the general funds of the borrower, for financial, legal, engineering, and other technical advice and services in connection with the review of the application by the Rural Electrification Administration.

(2) CONFLICTS OF INTEREST.—The Secretary shall establish procedures for the selection and the provision of technical services by consultants to ensure that the consultants have no financial or other conflicts of interest in the outcome of the application of the borrower.

(3) PAYMENT OF COSTS.—The Secretary may not, without the consent of the borrower, require, as a condition of processing an application for approval, that the borrower agree to pay the costs, fees, and expenses of consultants hired to provide technical or advisory services to the Secretary.

(4) CONTRACTS, GRANTS, AND AGREEMENTS. —The Secretary may enter into such contracts, grants, or cooperative agreements as are necessary to carry out this section.

(5) USE OF CONSULTANTS.—Nothing in this subsection shall limit the authority of the Secretary to retain the services of consultants from funds made available to the Secretary or otherwise.

[Nov. 28, 1990, Public Law 101-624, Title XXIII, §2353, 104 Stat. 4039; Nov. 1, 1993, Public Law 103-129, §2(c)(4), 107 Stat. 1364; Oct. 13, 1994, Public Law 103-354, Title II, §235(a)(13), 108 Stat. 3221; 7 U.S.C. § 918.]

SEC. 19. ENERGY GENERATION, TRANSMISSION, AND DISTRIBUTION FACILITIES EFFICIENCY GRANTS AND LOANS IN RURAL COMMUNITIES WITH EXTREMELY HIGH ENERGY COSTS.

(a) IN GENERAL.—The Secretary, acting through the Rural Utilities Service, may—

(1) in coordination with State rural development initiatives, make grants and loans to persons, States, political subdivisions of States, and other entities organized under the laws of States to acquire, construct, extend, upgrade, and otherwise improve energy generation, transmission, or distribution facilities serving communities in which the average residential expenditure for home energy is at least 275 percent of the national average residential

expenditure for home energy (as determined by the Energy Information Agency using the most recent data available);

(2) make grants and loans to the Denali Commission established by the Denali Commission Act of 1998 (42 U.S.C. 3121 note; Public Law 105-277) to acquire, construct, extend, upgrade, and otherwise improve energy generation, transmission, or distribution facilities serving communities described in paragraph (1); and

(3) make grants to State entities, in existence as of the date of the enactment of this section, to establish and support a revolving fund to provide a more cost-effective means of purchasing fuel where the fuel cannot be shipped by means of surface transportation.

(b) AUTHORIZATION OF APPROPRIATIONS.

(1) In General.—There are authorized to be appropriated to carry out this section $50,000,000 for fiscal year 2001 and such sums as are necessary for each subsequent fiscal year.

(2) Limitation on planning and administrative expenses.—Not more than 4 percent of the amounts made available under paragraph (1) may be used for planning and administrative expenses.

[Nov. 9, 2000, Public Law 106-472, Title III, § 301, 114 Stat. 2069, 7 U.S.C. § 918a.]

TITLE II—RURAL TELEPHONE SERVICE

SEC. 201. LOANS FOR RURAL TELEPHONE SERVICE. From such sums as are from time to time made available by the Congress to the Secretary for such purpose, pursuant to section 3 of this Act, the Secretary is authorized and empowered to make loans to persons now providing or who may hereafter provide telephone service in rural areas, to public bodies now providing telephone service in rural areas and to cooperative, nonprofit, limited dividend, or mutual associations. Except as otherwise provided by this title, such loans shall be made under the same terms and conditions as are provided in section 4 of this Act, for the purpose of financing the improvement, expansion, construction, acquisition, and operation of telephone lines, facilities or systems to furnish and improve telephone service in rural areas: Provided, however, That the Secretary, in making such loans, shall give preference to persons providing telephone service in rural areas, to public bodies now providing telephone service in rural areas and to cooperative, nonprofit, limited dividend, or mutual associations: And, provided further, that for a period of one year from and after the effective date of this title applications for loans received by the Secretary from persons who on the effective date of this title are engaged in the operation of existing telephone service in rural areas shall be considered and acted upon before action is taken upon any application received from any other person for any loan to finance the furnishing or improvement of telephone service to substantially the same subscribers. The Secretary in making such loans shall, insofar as possible, obtain assurance that the telephone service to be furnished or improved thereby will be made available to the widest practical number of rural users. When it is determined by the Secretary to be necessary in order to furnish or improve telephone service in rural areas, such loans may be made for the improvement, expansion, construction, acquisition, and operation of telephone lines, facilities, or systems without regard to their geographical location. The Secretary is further authorized and empowered to make loans for the purpose of refinancing outstanding indebtedness of persons furnishing telephone service in rural areas: Provided, That such refinancing shall be determined by the Secretary to be necessary in order to furnish and improve telephone service in rural areas: And provided further, That such refinancing shall constitute not more than 40 per centum of any loan made under this title. Loans under this section shall not be made unless the Secretary finds and certifies that in his judgement the security therefore is reasonably adequate and such loan will be repaid within the time agreed, nor shall such loan be made in any State which now has or may hereafter have a State regulatory body having authority to regulate telephone service and to require certificates of convenience and necessity to the applicant unless such certificate from such agency is first obtained. In a State in which there is no such agency or regulatory body legally authorized to issue such certificates to the applicant, no loan shall be made under this section unless the Secretary shall determine (and set forth his reasons therefore in writing) that no duplication of lines, facilities, or systems, providing reasonably adequate services will result therefrom.

[Oct. 28, 1949, ch. 776, §5, 63 Stat. 948; May 7, 1971, Public Law 92-12, §3(b), 85 Stat. 37; Oct. 13, 1994, Public Law 103-354, Title II, §235(a)(13), 108 Stat. 3221; 7 U.S.C. § 922.]

SEC. 202. STATE REGULATION OF TELEPHONE SERVICE.—Nothing contained in this Act shall be construed to deprive any State commission, board, or other agency of jurisdiction, under any State law, now or hereafter effective, to regulate telephone service which is not subject to regulation by the Federal Communications Commission, under the Communications Act of 1934, including the rates for such service.

[Oct. 28, 1949, ch. 776, §5, 63 Stat. 948; 7 U.S.C. § 923.]

SEC. 203. DEFINITION OF TELEPHONE SERVICE AND RURAL AREA.

(a) As used in this title, the term "telephone service" shall be deemed to mean any communication service for the transmission or reception of voice, data, sounds, signals, pictures, writing, or signs of all kinds by wire, fiber, radio, light, or other visual or electromagnetic means, and shall include all telephone lines, facilities, or systems used in the rendition of such service; but shall not be deemed to mean message telegram service or community antenna television system services or facilities other than those intended exclusively for educational purposes, or radio broadcasting services or facilities within the meaning of section 3(o) of the Communications Act of 1934, as amended.

(b) As used in this title, the term "rural area" shall be deemed to mean any area of the United States not included within the boundaries of any incorporated or unincorporated city, village, or borough having a population in excess of 5,000 inhabitants.

[Oct. 28, 1949, ch. 776, §5, 63 Stat. 948; Oct. 23, 1962, Public Law 87-862, 76 Stat. 1140; Nov. 28, 1990, Public Law 101-624, Title XXIII, §2354, 104 Stat. 4039; Nov. 1, 1993, Public Law 103-129, §2(c)(5), 107 Stat. 1364; 7 U.S.C. § 924.]

SEC. 204. LOAN FEASIBILITY.—The Secretary and the Governor of the telephone bank may not, as a condition of making a telephone loan to an applicant therefor, require the applicant to

(1) increase the rates charged to the applicant's customers or subscribers; or

(2) increase the applicant's ratio of

(A) net income or margins before interest; to

(B) the interest requirements on all of the applicant's outstanding and proposed loans.

[Nov. 28, 1990, Public Law 101-624, Title XXIII, §2355, 104 Stat. 4039; Oct. 13, 1994, Public Law 103-354, Title II, §235(a)(13), 108 Stat. 3221; 7 U.S.C. § 925.]

SEC. 205. CERTAIN RURAL DEVELOPMENT INVESTMENTS BY QUALIFIED TELEPHONE BORROWERS NOT TREATED AS DIVIDENDS OR DISTRIBUTIONS.

(a) IN GENERAL.—The Secretary and the Governor of the telephone bank shall not

(1) treat any amount invested by any qualified telephone borrower for any purpose described in section 607(c)(2) of the Rural Development Act of 1972 [7 U.S.C. 2204b(c)(2)] (including any investment in, or extension of credit, guarantee, or advance made to, an affiliated company of the borrower, that is used by such company for such a purpose) as a dividend or distribution of capital to the extent that, immediately after such investment, the aggregate of such investments does not exceed 1/3 of the net worth of the borrower, or

(2) require a qualified telephone borrower to obtain the approval of the Secretary or the Governor of the telephone bank in order to make an investment described in paragraph (1).

(b) QUALIFIED TELEPHONE BORROWER DEFINED.—As used in subsection (a), the term "qualified telephone borrower" means a person

(1) to whom a telephone loan has been made or guaranteed under this Act; and

(2) whose net worth is at least 20 percent of the total assets of such person.

[Nov. 28, 1990, Public Law 101-624, Title XXIII, §2356, 104 Stat. 4039; Oct. 13, 1994, Public Law 103-354, Title II, §235(a)(13), 108 Stat. 3221; 7 U.S.C. § 926.]

SEC. 206. GENERAL DUTIES AND PROHIBITIONS.

(a) DUTIES.—The Secretary and the Governor of the telephone bank shall—

(1) notwithstanding section 553(a)(2) of title 5, United States Code, cause to be published in the Federal Register, in accordance

with subsections (b) through (e) of section 553 of such title, all rules, regulations, bulletins, and other written policy standards governing the operations of the telephone loan and loan guarantee programs administered under this Act other than those relating to agency management and personnel;

(2) In evaluating the feasibility of a telephone loan to be made to a borrower for telephone services, use—

(A) with respect to items for which the regulatory authority with jurisdiction over the provision of such services has approved the depreciation rates used by the borrower, such approved rates; and

(B) with respect to other items, the average of the depreciation rates used by borrowers of telephone loans made under this Act;

(3) annually determine and publish the average described in paragraph (2)(B); and

(4) make loans for all purposes for which telephone loans are authorized under section 201 or 408, to the extent of qualifying applications therefor.

(b) PROHIBITIONS.—The Secretary and the Governor of the telephone bank shall not—

(1) rescind an insured telephone loan, or a Rural Telephone Bank loan, made under this Act without the consent of the borrower, unless all of the purposes for which telephone loans have been made to the borrower under this Act have been accomplished with funds provided under this Act;

(2) regulate the order or sequence of advances of funds under telephone loans made under this Act to any borrower who has received any combination of telephone loans from the Rural Electrification Administration, the Rural Telephone Bank, or the Federal Financing Bank; or

(3) deny a loan or advance to, or take any other adverse action against, an applicant for, or a borrower of, a telephone loan under this Act for any reason that is not based on a rule, regulation, bulletin, or other written policy standard that has not been published pursuant to section 553 of title 5, United States Code.

[Nov. 28, 1990, Public Law 101-624, Title XXIII, §2357, 104 Stat. 4040; Oct. 13, 1994, Public Law 103-354, Title II, §235(a)(7), (13), 108 Stat. 3221; 7 U.S.C. § 927.]

SEC. 207. PROMPT PROCESSING OF TELEPHONE LOANS.—Within ten days after the end of the second and fourth calendar quarters of each year, the Secretary shall submit to the Committee on Agriculture and the Committee on Appropriations of the House of Representatives, and to the Committee on Agriculture, Nutrition, and Forestry and the Committee on Appropriations of the Senate, a report—

(1) identifying each completed application for a telephone loan under section 305, a guarantee of a telephone loan under section 306, or a loan under section 408, that has not been finally acted upon within ninety days after the date the completed application is submitted; and

(2) stating the reasons for the failure to finally act upon the completed application within such ninety-day period.

[Nov. 28, 1990, Public Law 101-624, Title XXIII, §2358, 104 Stat. 4041; Oct. 13, 1994, Public Law 103-354, Title II, §235(a)(13), 108 Stat. 3221; 7 U.S.C. § 928.]

TITLE III—RURAL ELECTRIC AND TELEPHONE DIRECT LOAN PROGRAMS

SEC. 301. RURAL ELECTRIFICATION AND TELEPHONE REVOLVING FUND.

(a) There is hereby established in the Treasury of the United States a fund to be known as the Rural Electrification and Telephone Revolving Fund (hereinafter referred to as the "Fund"), consisting of:

(1) all notes, bonds, obligations, liens, mortgages, and property delivered or assigned to the Secretary pursuant to loans heretofore or hereafter made under sections 4, 5, and 201 of this Act and under this title, as of May 11, 1973, as revised herein, and all proceeds from the sales hereunder of such notes, bonds, obligations, liens, mortgages, and property, which shall be transferred to and be assets of the fund;

(2) undisbursed balances of electric and telephone loans made under sections 4, 5, and 201, which as of May 11, 1973, shall be transferred to and be assets of the fund;

(3) all collections of principal and interest received on and after July 1, 1972, on notes, bonds, judgments, or other obligations made or held under titles I and II of this Act and under this title, except for net collection proceeds previously appropriated for the

purchase of class A stock in the Rural Telephone Bank, which shall be paid into and be assets of the fund;

(4) all appropriations for interest subsidies and losses required under this title which may hereafter be made by the Congress and the unobligated balances of any funds made available for loans under the item "Rural Electrification Administration" in the Department of Agriculture and Agriculture-Environmental and Consumer Protection Appropriations Acts;

(5) moneys borrowed from the Secretary of the Treasury pursuant to section 304(a); and

(6) shares of the capital stock of the Rural Telephone Bank purchased by the United States pursuant to section 406(a) of this Act and moneys received from said bank upon retirement of said shares of stock in accordance with the provisions of title IV of this Act, which said shares and moneys shall be assets of the fund.

[May 7, 1971, Public Law 92-12, §2, 85 Stat. 29; May 11, 1973, Public Law 93-32, §2, 87 Stat. 66; Oct. 20, 1976, Public Law 94-570, §2, 90 Stat. 2701; Oct. 13, 1994, Public Law 103-354, Title II, §235(a)(13), 108 Stat. 3221; Apr. 4, 1996, Public Law 104-127, Title VII, §772(b)(1), 110 Stat. 1149; 7 U.S.C. § 931.]

SEC. 302. LIABILITIES AND USES OF RURAL ELECTRIFICATION AND TELEPHONE REVOLVING FUND.

(a) The notes of the Secretary to the Secretary of the Treasury to obtain funds for loans under sections 4, 5, and 201 of this Act, and all other liabilities against the appropriations or assets in the fund in connection with electrification and telephone loan operations shall be liabilities of the fund, and all other obligations against such appropriations or assets in the fund arising out of electrification and telephone loan operations shall be obligations of the fund.

(b) The assets of the fund shall be available only for the following purposes:

(1) loans which could be insured under this title, and for advances in connection with such loans and loans previously made, as of the effective date of this title[1], as revised herein, under sections 4, 5, and 201 of this Act;

(2) payment of principal when due (without interest) on outstanding loans to the Secretary from the Secretary of the Treasury for electrification and telephone purposes pursuant to

[1] The effective date was May 11, 1973.

section 3(a) of this Act and payment of principal and interest when due on loans to the Secretary from the Secretary of the Treasury pursuant to section 304(a) of this title;

(3) payments of amounts to which the holder of notes is entitled on insured loans: Provided, That payments other than final payments need not be remitted to the holder until due or until the next agreed annual, semiannual or quarterly remittance date;

(4) payment to the holder of insured notes of any defaulted installment or, upon assignment of the note to the Secretary at his request, the entire balance due on the note;

(5) purchase of notes in accordance with contracts of insurance entered into by the Secretary;

(6) payment in compliance with contracts of guarantee;

(7) payment of taxes, insurance, prior liens, expenses necessary to make fiscal adjustments in connection with the application, and transmittal of collections or necessary to obtain credit reports on applicants or borrowers expenses for necessary services, including construction inspections, commercial appraisals, loan servicing, consulting business advisory or other commercial and technical services, and other program services, and other expenses and advances authorized in section 7 of this Act in connection with insured loans. Such items may be paid in connection with guaranteed loans after or in connection with the acquisition of such loans or security thereof after default, to the extent determined to be necessary to protect the interest of the Government, or in connection with any other activity authorized in this Act;

(8) payment of the purchase price and any costs and expenses incurred in connection with the purchase, acquisition, or operation of property pursuant to section 7 of this Act.

(c) (1) The Secretary shall maintain two separate accounts within the fund, which shall be known as the electric account and the telephone account respectively.

(2) (A) The Secretary shall account for the assets, liabilities, income expenses, and equity of the fund attributable to electrification loan operations in the electric account.

(B) The Secretary shall account for the assets, liabilities, income expenses, and equity of the fund attributable to telephone loan operations in the telephone account.

(3) (A) The assets accounted for in the electric account shall be available solely for electrification loan operations under this Act.

(B) The assets accounted for in the telephone account shall be available solely for telephone loan operations under this Act (other than under title IV).

[May 7, 1971, Public Law 92-12, §2, 85 Stat. 30; May 11, 1973, Public Law 93-32, §2, 87 Stat. 66; Nov. 28, 1990, Public Law 101-624, Title XXIII, §2359 104 Stat. 4041; Oct. 13, 1994, Public Law 103-354, Title II, §235(a)(13), 108 Stat. 3221; Apr. 4, 1996, Public Law 104-127, Title VII, §772(b)(2), 110 Stat. 1149; 7 U.S.C. § 932.]

SEC. 303. DEPOSIT OF FUND MONIES.—Moneys in the fund shall remain on deposit in the Treasury of the United States until disbursed.

[May 11, 1973, Public Law 93-32, §2, 87 Stat. 67; 7 U.S.C. § 933.]

SEC. 304. AUTHORIZED FINANCIAL TRANSACTIONS; INTERIM NOTES; PURCHASE OF OBLIGATIONS FOR RESALE; SALE OF NOTES AND CERTIFICATES; LIENS.

(a) The Secretary is authorized to make and issue interim notes to the Secretary of the Treasury for the purpose of obtaining funds necessary for discharging obligations of the fund and for making loans, advances and authorized expenditures out of the fund. Such notes shall be in such form and denominations and have such maturities and be subject to such terms and conditions as may be agreed upon by the Secretary and the Secretary of the Treasury. Such notes shall bear interest at a rate fixed by the Secretary of the Treasury, taking into consideration the current average market yield of outstanding marketable obligations of the United States having maturities comparable to the notes issued by the Secretary under this section. The Secretary of the Treasury is authorized and directed to purchase any notes of the Secretary issued hereunder, and, for that purpose, the Secretary of the Treasury is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as amended, and the purposes for which such securities may be issued under such Act, as amended, are extended to include the purchase of notes issued by the Secretary. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes shall be treated as public debt transactions of the United States: Provided, however, That such interim notes to the Secretary of the Treasury shall not be included in the totals of the budget of the

United States Government and shall be exempt from any general limitation imposed by statute on expenditures and net lending (budget outlays) of the United States.

(b) The Secretary of the Treasury is authorized and directed to purchase for resale obligations insured through the fund when offered by the Secretary. Such resales shall be upon such terms and conditions as the Secretary of the Treasury shall determine. Purchases and resales by the Secretary of the Treasury hereunder shall not be included in the totals of the budget of the United States Government and shall be exempt from any general limitation imposed by statute on expenditures and net lending (budget outlays) of the United States.

(c) The Secretary may, on an insured basis or otherwise, sell and assign any notes in the fund or sell certificates of beneficial ownership therein to the Secretary of the Treasury or in the private market. Any sale by the Secretary of notes individually or in blocks shall be treated as a sale of assets for the purposes of the Budget and Accounting Act, 1921, notwithstanding the fact that the Secretary, under an agreement with the purchaser or purchasers, holds the debt instruments evidencing the loans and holds or reinvests payments thereon as trustee and custodian for the purchaser or purchasers of the individual note or of the certificate of beneficial ownership in a number of such notes. Security instruments taken by the Secretary in connection with any notes in the funds may constitute liens running to the United States notwithstanding the fact that such notes may be thereafter held by purchasers thereof.

[May 11, 1973, Public Law 93-32, §2, 87 Stat. 67; Oct. 13, 1994, Public Law 103-354, Title II, §235(a)(13), 108 Stat. 3221; 7 U.S.C. § 934.]

SEC. 305 INSURED LOANS. INTEREST RATES AND LENDING LEVELS.

(a) IN GENERAL.—The Secretary is authorized to make insured loans under this title and at the interest rates hereinafter provided to the full extent of the assets available in the fund, subject only to limitations as to amounts authorized for loans and advances as may be from time to time imposed by the Congress of the United States for loans to be made in any one year, which amounts shall remain available until expended: <u>Provided</u>, That the Congress in the annual appropriation Act may also authorize the transfer of any excess cash in the fund for deposit into the Treasury as miscellaneous receipts: <u>And provided further</u>, That any such loans and advances shall not be included In the totals of the budget of the United States Government and shall be exempt from any general limitation imposed by statute on expenditures and net lending (budget outlays) of the United States.

(b) INSURED LOANS.—Loans made under this section shall be insured by the Secretary when purchased by a lender. As used in this Act, an insured loan is one which is made, held, and serviced by the Secretary, and sold and insured by the Secretary hereunder, such loans shall be sold and insured by the Secretary without undue delay.

(c) INSURED ELECTRIC LOANS.

(1) HARDSHIP LOANS.

(A) IN GENERAL.—The Secretary shall make insured electric loans, to the extent of qualifying applications for the loans, at an interest rate of 5 percent per year to any applicant for a loan who meets each of the following requirements:

(i) The average revenue per kilowatt sold by the applicant is not less than 120 percent of the average revenue per kilowatt-hour sold by all utilities in the State in which the applicant provides service.

(ii) The average residential revenue per kilowatt-hour sold by the applicant is not less than 120 percent of the average residential revenue per kilowatt-hour sold by all utilities in the State in which the applicant provides service.

(iii) The average per capita income of the residents receiving electric service from the applicant is less than the average per capita income of the residents of the State in which the applicant provides service, or the median household income of the households receiving electric service from the applicant is less than the median household income of the households in the State.

(B) SEVERE HARDSHIP LOANS.—In addition to hardship loans that are made under subparagraph (A), the Secretary may make an insured electric loan at an Interest rate of 5 percent per year to an applicant for a loan if, in the sole discretion of the Secretary, the applicant has experienced a severe hardship.

(C) LIMITATION.—Except as provided In subparagraph (D), the Secretary may not make a loan under this paragraph to an applicant for the purpose of furnishing or improving electric service to a consumer located in an urban area (as defined by the Bureau of the Census) if the average number of consumers per mile of line of the total electric system of the applicant exceeds 17.

(D) EXTREMELY HIGH RATES.—In addition to hardship loans that are made under subparagraphs (A) and (B), the Secretary shall make insured electric loans, to the extent of qualifying applications for the loans, at an interest rate of 5 percent per year to any applicant for a loan whose residential revenue exceeds 15.0 cents per kilowatt-hour sold. A qualifying application from such an applicant for the purpose of furnishing or improving electric service to a consumer located outside of an urbanized area shall not be subject to the conditions or limitation of subparagraph (A) or (C).

(2) MUNICIPAL RATE LOANS.

(A) IN GENERAL.—The Secretary shall make insured electric loans, to the extent of qualifying applications for the loans, at the interest rate described in subparagraph (B) for the term or terms selected by the applicant pursuant to subparagraph (C).

(B) INTEREST RATE.

(i) IN GENERAL.—Subject to clause (ii), the interest rate described in this subparagraph on a loan to a qualifying applicant shall be—

(I) the interest rate determined by the Secretary to be equal to the current market yield on outstanding municipal obligations with remaining periods to maturity similar to the term selected by the applicant pursuant to subparagraph (C), but not greater than the rate determined under section 307(a)(3)(A) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1927(a)(3)(A)) that is based on the current market yield on outstanding municipal obligations; plus

(II) if the applicant for the loan makes an election pursuant to subparagraph (D) to include in the loan agreement the right of the applicant to prepay the loan, a rate equal to the amount by which-

(aa) the interest rate on commercial loans for a similar period that afford the borrower such a right; exceeds

(bb) the interest rate on commercial loans for the period that do not afford the borrower such a right.

(ii) MAXIMUM RATE.—The interest rate described in this subparagraph on a loan to an applicant for the loan shall not exceed 7 percent if—

(I) the average number of consumers per mile of line of the total electric system of the applicant is less than 5.50; or

(II)(aa) the average revenue per kilowatt-hour sold by the applicant is more than the average revenue per kilowatt-hour sold by all utilities in the State in which the applicant provides service; and

(bb) the average per capita income of the residents receiving electric service from the applicant is less than the average per capita income of the residents of the State in which the applicant provides service, or the median household income of the households receiving electric service from the applicant is less than the median household income of the households in the State.

(iii) EXCEPTION.—Clause (ii) shall not apply to a loan to be made to an applicant for the purpose of furnishing or improving electric service to consumers located in an urban area (as defined by the Bureau of the Census) if the average number of consumers per mile of line of the total electric system of the applicant exceeds 17.

(C) LOAN TERM.

(i) IN GENERAL.—Subject to clause (ii), the applicant for a loan under this paragraph may select the term for which an interest rate shall be determined pursuant to subparagraph (B), and, at the end of the term (and any succeeding term selected by the applicant under this subparagraph), may renew the loan for another term selected by the applicant.

(ii) MAXIMUM TERM.

(I) APPLICANT.—The applicant may not select a term that ends more than 35 years after the beginning of the first term the applicant selects under clause (i).

(II) SECRETARY.—The Secretary may prohibit an applicant from selecting a term that would result in the total term of the loan being greater than the expected useful life of the assets being financed.

(D) CALL PROVISION.—The Secretary shall offer any applicant for a loan under this paragraph the option to include in the loan agreement the right of the applicant to prepay the loan on terms consistent with similar provisions of commercial loans.

(3) OTHER SOURCE OF CREDIT NOT REQUIRED IN CERTAIN CASES.—The Secretary may not require any applicant for a loan made under this subsection who is eligible for a loan under paragraph (1) to obtain a loan from another source as a condition of approving the application for the loan or advancing any amount under the loan.

(d) INSURED TELEPHONE LOANS.

(1) HARDSHIP LOANS.

(A) IN GENERAL.—The Secretary shall make insured telephone loans, to the extent of qualifying applications for the loans, at an interest rate of 5 percent per year, to any applicant who meets each of the following requirements:

(i) The average number of subscribers per mile of line in the service area of the applicant is not more than 4.

(ii) The applicant is capable of producing net income or margins before interest of not less than 100 percent (but not more than 300 percent) of the interest requirements on all of the outstanding and proposed loans of the applicant.

(iii) The Secretary has approved a telecommunications modernization plan for the State under paragraph (3) and if the plan was developed by telephone borrowers under this title, the applicant is a participant in the plan.

(iv) The average number of subscribers per mile of line in the area included in the proposed loan is not more than 17.

(B) AUTHORITY TO WAIVE TIER REQUIREMENT.

The Secretary may waive the requirement of subparagraph (A)(ii) in any case in which the Secretary determines (and sets forth the reasons for the waiver in writing) that the requirement would prevent emergency restoration of the telephone system of the applicant or result in severe hardship to the applicant.

(C) EFFECT OF LACK OF FUNDS.—On request of any applicant who is eligible for a loan under this paragraph for which funds are not available, the applicant shall be considered to have applied for a loan under title IV.

(2) COST-OF-MONEY LOANS.

(A) IN GENERAL.—The Secretary may make insured telephone loans for the acquisition, purchase, and installation of telephone lines systems, and facilities (other than buildings used primarily for administrative purposes, vehicles not used primarily in construction and customer premise equipment) related to the furnishing, improvement, or extension of rural telecommunications service, at an interest rate equal to the then current cost of money to the government of the United States for loans of similar maturity, but not more than 7 percent per year, to any applicant for a loan who meets the following requirements:

(i) The average number of subscribers per mile of line in the service area of the applicant is not more than 15, or the applicant is capable of producing net income or margins before interest of not less than 100 percent (but not more than 500 percent) of the interest requirements on all of the outstanding and proposed loans of the applicant.

(ii) The Secretary has approved a telecommunications modernization plan for the State under paragraph (3) and, if the plan was developed by telephone borrowers under this title, the applicant is a participant in the plan.

(B) CONCURRENT LOAN AUTHORITY.—On request of any applicant for a loan under this paragraph during any fiscal year, the Secretary shall—

(i) consider the application to be for a loan under this paragraph and a loan under section 408; and

(ii) if the applicant is eligible for a loan, make a loan to the applicant under this paragraph in an amount equal to the amount that bears the same ratio to the total amount of loans for which the applicant is eligible under this paragraph and under section 408, as the amount made available for loans under this paragraph for the fiscal year bears to the total amount made available for loans under this paragraph and under section 408 for the fiscal year.

(C) EFFECT OF LACK OF FUNDS.—On request of any applicant who is eligible for a loan under this paragraph for which funds are not available, the applicant shall be considered to have applied for a loan guarantee under section 306.

(3) STATE TELECOMMUNICATIONS MODERNIZATION PLANS.

(A) APPROVAL.—If, not later than 1 year after final regulations are promulgated to carry out this paragraph, any State, either by statute or through the public utility commission of the State, develops a telecommunications modernization plan that meets the requirements of subparagraph (B), the Secretary shall approve the plan for the State. If a State does not develop a plan in accordance with the requirements of the preceding sentence, the Secretary shall approve any telecommunications modernization plan for the State that meets the requirements that is developed by a majority of the borrowers of telephone loans made under this title who are located in the State.

(B) REQUIREMENTS.—For purposes of subparagraph (A), a telecommunications modernization plan must, at a minimum, meet the following objectives:

(i) The plan must provide for the elimination of party line service.

(ii) The plan must provide for the availability of telecommunications services for improved business, educational, and medical services.

(iii) The plan must encourage and improve computer networks and information highways for subscribers in rural areas.

(iv) The plan must provide for—

(I) subscribers in rural areas to be able to receive through telephone lines—

(aa) conference calling;

(bb) video images; and

(cc) data at a rate of at least 1,000,000 bits of information per second, and

(II) the proper routing of information to subscribers.

(v) The plan must provide for uniform deployment schedules to ensure that advanced services are deployed at the same time in rural and nonrural areas.

(vi) The plan must provide for such additional requirements for service standards as may be required by the Secretary.

(C) FINALITY OF APPROVAL.—A telecommunications modernization plan approved under subparagraph (A) may not subsequently be disapproved. Notwithstanding paragraphs (l)(A)(iii) and (2)(A)(iii)[2], and section 408(b)(4)(C)[3], the Secretary and the Governor of the telephone bank may make a loan to a borrower serving a State that does not have a telecommunication modernization plan approved by the Secretary if the loan is made less than 1 year after the Secretary has adopted final regulations implementing this paragraph.

[May 11, 1973, Public Law 93-32, §2, 87 Stat. 68; Oct. 20, 1976 Public Law 94-570, §3, 90 Stat. 2701; Aug. 13, 1981, Public Law 97-35, Title I, §165(a), 95 Stat. 379; Nov. 28, 1990, Public Law 101-624, Title XXIII, §2361, 104 Stat. 4042; Nov. 1, 1993, Public Law 103-129, §2(a)(1), §2(c)(6), 107 Stat. 1356, 1364; Oct. 13, 1994, Public Law 103-354, Title II, §235(a)(8), (13), 108 Stat. 3221; 7 U.S.C. § 935.]

SEC. 306. GUARANTEED LOANS; ACCOMMODATION AND SUBORDINATION OF LIENS; ASSIGNABILITY OF GUARANTEED LOANS AND RELATED GUARANTEES.

The Secretary may provide financial assistance to borrowers for purposes provided in the Rural Electrification Act of 1936, as amended, by guaranteeing loans, in the full amount thereof, made by the Rural Telephone Bank, National Rural Utilities Cooperative Finance Corporation, and any other legally organized lending agency, or by accommodating or subordinating liens or mortgages in the fund held by the Secretary as owner or as trustee or custodian for purchases of notes from the fund, or by any combination of such guarantee, accommodation, or subordination. The Secretary shall not provide such assistance to any borrower of a telephone loan under this Act unless the borrower specifically applies for such assistance. No fees or charges shall be assessed for any such accommodation, or subordination. Guaranteed loans shall bear interest at the rate agreed upon by the borrower and the lender. Guaranteed loans, and accommodation and subordination of liens or mortgages, may be made concurrently with an insured loan. The amount of guaranteed loans shall be subject only to such limitations as to amounts as may be authorized from time to time by the Congress of the United States:

2 Probably should be paragraph (2)(A)(ii)

3 Probably should be section 948(b)(4)(B)

Provided, That any amounts guaranteed hereunder shall not be included in the totals of the budget of the United States Government and shall be exempt from any general limitation imposed by statute on expenditures and net lending Budget outlays) of the United States. As used in this title, a guaranteed loan is one which is initially made, held and serviced by a legally organized lending agency and which is guaranteed by the Secretary hereunder. A guaranteed loan, including the related guarantee, may be assigned to the extent provided in the contract of guarantee executed by the Secretary under this title, the assignability of such loan and guarantee shall be governed exclusively by said contract of guarantee.

[May 11, 1973, Public Law 93-32, §2, 87 Stat. 69; Nov. 4, 1975, Public Law 94-124 §1, 89 Stat. 677; Aug. 13, 1981, Public Law 97-35, Title I, §165(b), 95 Stat. 379; Nov. 28, 1990, Public Law 101-624, Title XXIII, §2362, 104 Stat. 4042; Oct. 13, 1994, Public Law 103-354, Title II, Subtitle C, §235(a)(13), 108 Stat. 3221; June 18, 2008, Public Law 110-246, §4(a), Title VI, § 6102(b), 122 Stat. 1664, 1956; 7 U.S.C. § 936.] (NOTE: Legislation which included a provision authorizing the prepayment of loans by rural electrification and telephone systems (July 2, 1986, Public Law 99-349, Title I, Chapter 1, 100 Stat. 713) was subsequently amended and the authorization repealed (Oct. 21, 1986, Public Law 99-509, Title I, §1011(b), 100 Stat. 1876.))

SEC. 306A. PREPAYMENT OF LOANS.

(a) CONDITIONS FOR PREPAYMENT.—Except as provided in subsection (c), a borrower of a loan made by the Federal Financing Bank and guaranteed under section 306 of this Act may prepay such loan (or any loan advance thereunder) by paying the outstanding principal balance due on the loan (or advance), if

(1) the loan is outstanding on July 2, 1986;

(2) private capital, with the existing loan guarantee, is used to replace the loan, and

(3) the borrower certifies that any savings from such prepayment will be passed on to its customers or used to improve the financial strength of the borrower in cases of financial hardship.

(b) CHARGES ON PREPAYMENT PROHIBITED.—No sums in addition to the payment of the outstanding principal balance due on the loan may be charged against the borrower, the fund, or the Secretary.

(c) DISQUALIFICATION FOR PREPAYMENT ON FINDING OF ADVERSE EFFECT ON FEDERAL FINANCING BANK.

(1) A borrower will not qualify for prepayment under this section if, in the opinion of the Secretary of the Treasury, to prepay in such borrower's case would adversely affect the operation of the Federal Financing Bank.

(2) Paragraph (1) shall be effective in fiscal year 1987 only for any loan the prepayment of the principal amount of which will cause the cumulative amount of net proceeds from all such prepayments made during such year to exceed $2,017,500,000.

(d) AMOUNT OF PERMISSABLE PREPAYMENTS; ESTABLISHMENT OF ELIGIBILITY CRITERIA.

(1) The Secretary shall permit, subject to subsection (a), prepayments of principal on loans in fiscal year 1987 under this section or Public Law 99-349 [Pub. L. 99-349, July 2, 1986, 100 Stat. 710] in such amounts as to realize net proceeds from all such prepayments in fiscal year 1987 in an amount not less than $2,017,500,000.

(2) The Secretary shall establish

(A) eligibility criteria to ensure that any loan prepayment activity required to be carried out under this subsection will be directed to those cooperative borrowers in greatest need of the benefits associated with prepayment, as determined by the Secretary; and

(B) such other eligibility criteria as the Secretary determines are necessary to carry out this subsection.

(e) ASSIGNABILITY AND TRANSFERABILITY OF LOAN GUARANTEES.

Any guarantee of a loan prepaid under this section shall be fully assignable under the provisions of section 306 of this Act and transferable. However, the Secretary may require that any such guarantee, if transferred or assigned, be transferred or assigned to a loan or security that, if sold, will be grouped with non-guaranteed loans or securities and sold in a manner to ensure that such sale will not unreasonably compete with the marketing of obligations of the United States.

[Oct. 21, 1986, Public Law 99-509, Title I, Subtitle B, §1011(a), 100 Stat. 1875; Oct. 13, 1994, Public Law 103-354, Title II, §235(a)(7), (13), 108 Stat. 3221; 7 U.S.C. § 936a.]

SEC. 306B. SALE OR PREPAYMENT OF DIRECT OR INSURED LOANS.

(a) DISCOUNTED PREPAYMENT BY BORROWERS OF ELECTRIC LOANS.

(1) IN GENERAL.—Except as provided in paragraph (2), a direct or insured loan made under this Act shall not be sold or prepaid at a value that is less than the outstanding principal balance on the loan.

(2) EXCEPTION.—On request of the borrower, an electric loan made under this Act, or a portion of such a loan, that was advanced before May 1, 1992, or has been advanced for not less than 2 years, shall be sold to or prepaid by the borrower at the lesser of—

(A) the outstanding principal balance on the loan; or

(B) the present value of the loan discounted from the face value at maturity at the rate established by the Secretary.

(3) DISCOUNT RATE.—The discount rate applicable to the prepayment under this subsection of a loan or loan advance shall be the then current cost of funds to the Department of the Treasury for obligations of comparable maturity to the remaining term of the loan.

(4) TAX EXEMPT FINANCING.—If a borrower prepays a loan under this subsection using tax exempt financing, the discount shall be adjusted to ensure that the borrower receives a benefit that is equal to the benefit the borrower would receive if the borrower used fully taxable financing. The borrower shall certify in writing whether the financing will be tax exempt and shall comply with such other terms and conditions as the Secretary may establish that are reasonable and necessary to carry out this subsection.

(5) ELIGIBILITY.

(A) IN GENERAL.—A borrower that has prepaid an insured or direct loan shall remain eligible for assistance under this Act in the same manner as other borrowers, except that—

(i) a borrower that has prepaid a loan, either before or after the date of enactment of this subsection, at a discount rate as provided by paragraph (3), shall not be eligible, except at the discretion of the Secretary, to apply for or receive direct or insured loans under this Act during the 120-month period beginning on the date of the prepayment; and

(ii) a borrower that prepaid a loan before the date of enactment of this subsection at a discount rate greater than that provided by paragraph (3), shall not be eligible—

(I) except at the discretion of the Secretary, to apply for or receive direct or insured loans described in clause (i) during the 180-month period beginning on the date of the prepayment; or

(II) to apply for or receive direct or insured loans described in clause (i) until the borrower has repaid to the Federal Government the sum of—

(aa) the amount (if any) by which the discount the borrower received by reason of the prepayment exceeds the discount the borrower would have received had the discount been based on the cost of funds to the Department of the Treasury at the time of the prepayment; and

(bb) interest on the amount described in item (aa), for the period beginning on the date of the prepayment and ending on the date of the repayment, at a rate equal to the average annual cost of borrowing by the Department of the Treasury.

(B) EFFECT ON EXISTING AGREEMENTS.—If a borrower and the Secretary have entered into an agreement with respect to a prepayment occurring before the date of enactment of this subsection this paragraph shall supersede any provision in the agreement relating to the restoration of eligibility for loans under this Act.

(C) DISTRIBUTION BORROWERS.—A distribution borrower not in default on the repayment of loans made or insured under this Act shall be eligible for discounted prepayment as provided in this subsection. For the purpose of determining eligibility for discounted prepayment under this subsection or eligibility for assistance under this Act, a default by a borrower from which a distribution borrower purchases wholesale power shall not be considered a default by the distribution borrower.

(6) DEFINITIONS.—As used in this subsection:

(A) DIRECT LOAN.—The term 'direct loan' means a loan made under section 4.

(B) INSURED LOAN.—The term 'insured loan' means a loan made under section 305.

(b) MERGERS OF ELECTRIC BORROWERS.

Notwithstanding subsection (a), a direct or insured loan may be prepaid by an electric borrower at the lesser of the outstanding principal balance due thereon or the present value thereof discounted from the face value at maturity at the rate set by the Secretary if the borrower is an electrical organization which resulted from a merger or consolidation between a borrower and an organization which, prior to October 1, 1987, prepaid its direct or insured loans pursuant to this section. Prepayments by a borrower hereunder shall be made not later than one year after the effective date of the merger, consolidation, or other transaction. The discount rate to be set by the Secretary for direct or insured loans prepayments hereunder shall be based on the current cost of funds to the Department of the Treasury for obligations of comparable maturity to those being prepaid. If a borrower prepays using tax exempt financing, the discount shall be adjusted to make the discount equivalent to fully taxable financing. The borrower shall certify in writing whether the financing will be tax exempt and shall comply with such other terms and conditions as the Secretary may establish which are reasonable and necessary to implement this provision. As used in this section, the term "direct loan" means a loan made under section 4.

[Oct. 21, 1986, Public Law 99-509, Title I, Subtitle B, §1011(a), 100 Stat. 1876; Nov. 28, 1990, Public Law 101-624, Title XXIII, §2387, 104 Stat. 4051; Oct. 21, 1992, Public Law 102-428, §2, 106 Stat. 2183; Oct. 13, 1994, Public Law 103-354, Title II, §235(a)(13), 108 Stat. 3221; 7 U.S.C. § 936b.]

SEC. 306C. REFINANCING AND PREPAYMENT OF FFB LOANS.

(a) IN GENERAL.—A borrower of a loan made by the Federal Financing Bank and guaranteed under section 306 may, at the option of the borrower, refinance or prepay the loan or an advance on the loan, or any portion of the loan or advance.

(b) PENALTY.

(1) DETERMINATION OF PENALTY.— A penalty shall be assessed against a borrower that refinances or prepays a loan or loan advance, or any portion of a loan or advance, under this section. Except as provided in paragraph (2), the penalty shall be equal to the lesser of—

(A) the difference between the outstanding principal balance of the loan being refinanced and the present value of the loan discounted at a rate equal to the then current cost of funds to the Department of the Treasury for obligations of comparable maturity to the loan being refinanced or prepaid;

(B) 100 percent of the amount of interest for 1 year on the outstanding principal balance of the loan or loan advance, or any portion of the loan or advance, being refinanced, multiplied by the ratio that—

(i) the number of quarterly payment dates between the date of the refinancing or prepayment and the maturity date for the loan advance; bears to

(ii) the number of quarterly payment dates between the first quarterly payment date that occurs 12 years after the end of the year in which the amount being refinanced was advanced and the maturity date of the loan advance, and

(C) (i) the present value of 100 percent of the amount of interest for 1 year on the outstanding principal balance of the loan or loan advance or any portion of the loan or advance, being refinanced or prepaid, plus

(ii) for the interval between the date of the refinancing or prepayment and the first quarterly payment date that occurs 12 years after the end of the year in which the amount being refinanced or prepaid was advanced, the present value of the difference between—

(I) each payment scheduled for the interval on the loan amount being refinanced or prepaid; and

(II) the payment amounts that would be required during the interval on the amounts being refinanced or prepaid if the interest rate on the loan were equal to the then current cost of funds to the Department of the Treasury for obligations of comparable maturity to the loan being refinanced or prepaid.

(2) LIMITATION.

(A) IN GENERAL — Except as provided in subparagraph (B), the penalty provided by paragraph (1)(A) shall be required for refinancing or prepayment under this section.

(B) EXCEPTION.—In the case of a loan advanced under an agreement that permits the refinancing or prepayment of the loan advance based on the payment of 1 year of interest on the outstanding principal balance of the loan advance, a borrower may, in lieu of the penalty required by paragraph (1)(A), pay a penalty as provided by—

(i) paragraph (1)(B), if the loan advance has reached the 12-year maturity required under the loan agreement for the refinancing or prepayment, or

(ii) paragraph (1)(C), if the loan advance has not reached the 12-year maturity required under the loan agreement for the refinancing or prepayment.

(3) FINANCING OF PENALTY.

(A) IN GENERAL.—In the case of a refinancing under this section, a borrower may, at the option of the borrower, meet the penalty requirements of paragraph (1) by—

(i) making a payment in the amount of the required penalty at the time of the refinancing, or

(ii) increasing the outstanding principal balance of the loan advance guaranteed by the Secretary that is being refinanced under this section by the amount of the penalty.

(B) INCREASED PRINCIPAL.—If a borrower meets the penalty requirements of paragraph (1) by increasing the outstanding principal balance of the loan advance that is being refinanced, the borrower shall make a payment at the time of the refinancing equal to 2.5 percent of the amount of the penalty that is added to the outstanding principal balance of the loan.

(c) LOAN TERMS AND CONDITIONS AFTER REFINANCING.

(1) IN GENERAL.—On the payment of a penalty as provided by subsection (b), the loan or loan advance, or any portion of the loan or advance, shall be refinanced at the interest rate described in paragraph (2) for a term selected by the borrower pursuant to paragraph (3), except that this paragraph shall not apply if the loan advance, or any portion of the advance, is prepaid by the borrower.

(2) INTEREST RATE.—The interest rate on a loan refinanced under this section shall be determined to be equal to the then current cost of funds to the Department of the Treasury for obligations of comparable maturity to a term selected by the borrower pursuant to paragraph (3) except that such rate shall not be greater than 7 percent per year subject to subsection (d).

(3) LOAN TERM—Subject to paragraph (4), the borrower of a loan that is refinanced under this section—

(A) shall select the term for which an interest rate shall be determined pursuant to paragraph (2); and

(B) at the end of the term (and any succeeding term selected by the borrower under this paragraph), may renew the loan for another term selected by the borrower.

(4) MAXIMUM TERM.—The borrower may not select a term pursuant to paragraph (3) that ends after the maturity date set for the loan before the refinancing of the loan under this section.

(5) EXISTING LOANS.—In the case of the refinancing of a loan of a borrower pursuant to this section and the inclusion of a penalty in the outstanding principal balance of the refinanced loan pursuant to subsection (b)(3) of this section[4]—

(A) the refinancing and inclusion of the penalty shall not be subject to appropriations or limited by the amount provided during a fiscal year for new loans, loan guarantees, or other credit activity;

(B) the request of the borrower for the refinancing under this section may not be denied or delayed; and

(C) the borrower may not be limited in the selection of any refinancing or prepayment option provided by this section to the borrower.

(d) MAXIMUM RATE OPTION.

(1) IN GENERAL.—Except as provided in paragraphs (2), (3), and (4), a borrower of a loan or loan advance, or any portion of the loan or advance that is refinanced under this section shall have the option of ensuring that the interest rate on such loan, loan advance, or portion thereof does not exceed 7 percent per year.

(2) LIMITATION.—A borrower may not exercise the option under paragraph (1) in the case of a loan or loan advance, or portion thereof, if the total amount of such loans for which such option would be exercised exceeds 50 percent of the outstanding principal balance of the loans made to such borrower and guaranteed under section 306.

(3) FEE.—A borrower that exercises the maximum rate option under paragraph (1) shall, at the time of exercising such option, pay a fee equal to 1 percent of the outstanding principal balance of such loan or loan advance, or portion thereof, for which such option is exercised. Such fee shall be in addition to the penalties and other payments required under subsection (b).

(4) SUNSET.—The option provided under paragraph (1) shall not be available in the case of any loan or loan advance, or portion thereof, unless a written request to exercise such option is sent to the Secretary not later than 1 year after the effective date of regulations issued to carry out the Rural Electrification Loan Restructuring Act of 1993.

[4] the words "of this section" appear in the codification but not in the public law as printed in U.S. Statutes at Large.

[Aug. 10, 1993, Public Law 103-66, Title I, Subtitle B, §1201(a), 107 Stat. 327; Nov. 1, 1993, Public Law 103-129 §2(c)(10), 107 Stat. 1365; Oct. 13, 1994, Public Law 103-354, Title II, §235(a)(13), 108 Stat. 3221; 7 U.S.C. § 936c.]

SEC. 306D.[5] ELIGIBILITY OF DISTRIBUTION BORROWERS FOR LOANS, LOAN GUARANTEES, AND LIEN ACCOMMODATIONS.—For the purpose of determining the eligibility of a distribution borrower not in default on the repayment of a loan made or guaranteed under this Act for a loan, loan guarantee, or lien accommodation under this title, a default by a borrower from which the distribution borrower purchases wholesale power shall not—

(1) be considered a default by the distribution borrower;

(2) reduce the eligibility of the distribution borrower for assistance under this Act; or

(3) be the cause, directly or indirectly, of imposing any requirement or restriction on the borrower as a condition of the assistance, except such requirements or restrictions as are necessary to implement a debt restructuring agreed on by the power supply borrower and the Government.

[Nov. 1, 1993, Public Law 103-129, §2(c)(7), 107 Stat. 1364; 7 U.S.C § 936d.]

SEC. 306E. ADMINISTRATIVE PROHIBITIONS APPLICABLE TO CERTAIN ELECTRIC BORROWERS.

a) IN GENERAL.—For the purpose of relieving borrowers of unnecessary and burdensome requirements, the Secretary guided by the practices of private lenders with respect to similar credit risks, shall issue regulations applicable to any electric borrower under this Act whose net worth exceeds 110 percent of the outstanding principal balance on all loans made or guaranteed by the Secretary to minimize those approval rights, requirements, restrictions, and prohibitions that the Secretary otherwise may establish with respect to the operations of such a borrower.

(b) SUBORDINATION OR SHARING OF LIENS.—At the request of a private lender providing financing to such a borrower for a capital investment, the Secretary shall, expeditiously, either offer to

[5] Section 2(c)(7) of Public Law 103-129 (107 Stat. 1364), which added sections 306D and 306E, probably should have inserted such sections after 306C, not section 306B as provided. They are printed here in the order as codified in the U.S. Code.

share the government's lien on the borrower's system or offer to subordinate the government's lien on that property financed by the private lender.

(c) ISSUANCE OF REGULATIONS.—In issuing regulations implementing this section, the Secretary may establish requirements, guided by the practices of private lenders, to ensure that the security for any loan made or guaranteed under this Act is reasonably adequate.

(d) AUTHORITY OF THE SECRETARY.—Nothing in this section limits the authority of the Secretary to establish terms and conditions with respect to the use by borrowers of the proceeds of loans made or guaranteed under this Act or to take any other action specifically authorized by law.

[Nov. 1, 1993, Public Law 103-129, §2(c)(7), 107 Stat. 1365; Dec. 17, 1993, Public Law 103-201, §1, 107 Stat. 2342; Oct. 13, 1994, Public Law 103-354, Title II, Subtitle C, §235(a)(8), (13), 108 Stat. 3221; 7 U.S.C. § 936e.]

SEC. 306F. SUBSTANTIALLY UNDERSERVED TRUST AREAS.

(a) DEFINITIONS.—In this section:

(1) ELIGIBLE PROGRAM.—The term "eligible program" means a program administered by the Rural Utilities Service and authorized in—

(A) this Act; or

(B) paragraph (1), (2), (14), (22), or (24) of section 306(a) or section 306A, 306C, 306D, or 306E of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926(a), 1926a, 1926c, 1926d, 1926e).

(2) SUBSTANTIALLY UNDERSERVED TRUST AREA.—The term "substantially underserved trust area" means a community in "trust land" (as defined in section 3765 of title 38, United States Code) with respect to which the Secretary determines has a high need for the benefits of an eligible program.

(b) INITIATIVE.—The Secretary, in consultation with local governments and Federal agencies, may implement an initiative to identify and improve the availability of eligible programs in communities in substantially underserved trust areas.

(c) AUTHORITY OF SECRETARY.—In carrying out subsection (b) the Secretary—

(1) may make available from loan or loan guarantee programs administered by the Rural Utilities Service to qualified utilities or

applicants financing with an interest rate as low as 2 percent, and with extended repayment terms;

(2) may waive nonduplication restrictions, matching fund requirements, or credit support requirements from any loan or grant program administered by the Rural Utilities Service to facilitate the construction, acquisition, or improvement of infrastructure;

(3) may give the highest funding priority to designated projects in substantially underserved trust areas; and

(4) shall only make loans or loan guarantees that are found to be financially feasible and that provide eligible program benefits to substantially underserved trust areas.

(d) REPORT.—Not later than 1 year after the date of enactment of this section[6] and annually thereafter, the Secretary shall submit to Congress a report that describes—

(1) the progress of the initiative implemented under subsection (b); and

(2) recommendations for any regulatory or legislative changes that would be appropriate to improve services to substantially underserved trust areas.

[May 22, 2008, Public Law 110-234, Title VI, §6105, 122 Stat. 1196: June 18, 2008, Public Law 110-246, §4(a), Title VI, § 6105, 122 Stat. 1664, 1957; 7 U.S.C. § 936f.]

SEC. 307. LOANS FROM OTHER CREDIT SOURCES.

When it appears to the Secretary that the loan applicant is able to obtain a loan for part of his credit needs from a responsible cooperative or other credit source at reasonable rates and terms consistent with the loan applicant's ability to pay and the achievement of the Act's objectives, he may request the loan applicant to apply for and accept such a loan concurrently with an insured loan, subject, however, to full use being made by the Secretary of the funds made available hereunder for such insured loans under this title. The Secretary may not request any applicant for an electric loan under this Act to apply for and accept a loan in an amount exceeding 30 percent of the credit needs of the applicant.

[May 11, 1973 Public Law 93-32, §2, 87 Stat. 70; Aug. 13, 1981, Public Law 97-35, Title I, Subtitle B, §165(c), 95 Stat. 379; Nov. 1,

[6] The date of enactment was June 18, 2008.

1993, Public Law 103-129, §2(c)(8), 107 Stat. 1365; Oct. 13, 1994, Public Law 103-354, Title II, Subtitle C, §235(a)(13), 108 Stat. 3221; 7 U.S.C. § 937.]

SEC. 308. FULL FAITH AND CREDIT OF THE UNITED STATES.—Any contract of insurance or guarantee executed by the Secretary under this title shall be an obligation supported by the full faith and credit of the United States and incontestable except for fraud or misrepresentation of which the holder had actual knowledge at the time it became a holder.

[May 11, 1973, Public Law 93-32, §2, 87 Stat. 65; Nov. 4, 1975, Public Law 94-124, §2, 89 Stat. 677; Oct. 13, 1994, Public Law 103-354, Title II, Subtitle C, §235(a)(13), 108 Stat. 3221; 7 U.S.C. § 938.]

SEC. 309. LOAN TERMS AND CONDITIONS.—Loans made from or insured through the fund shall be for the same purposes and on the same terms and conditions as are provided for loans in titles I and II of this Act except as otherwise provided in sections 303 to 308 inclusive. The preceding sentence shall not be construed to make section 408(b)(2) or 412 applicable to this title.

[May 11, 1973, Public Law 93-32, §2, 87 Stat. 65; Nov. 28, 1990, Public Law 101-624, Title XXIII, §2360, 104 Stat. 4042; Nov. 1, 1993, Public Law 103-129, §2(b)(2), 107 Stat. 1363; Apr. 4, 1996, Public Law 104-127, Title VII, Subtitle C, §779, 110 Stat. 1151; 7 U.S.C. § 939.]

SEC. 310. REFINANCING OF RURAL DEVELOPMENT LOANS.—At the request of the borrower, the Secretary is authorized and directed to refinance with loans which will be insured under this Act, at the interest rates provided in section 305, any loans made for rural electric and telephone facilities under any provision of the Consolidated Farm and Rural Development Act.

[May 11, 1973, Public Law 93-32, §2, 87 Stat. 70; Oct. 13, 1994, Public Law 103-354, Title II, Subtitle C, §235(a)(13), 108 Stat. 3221; 7 U.S.C. § 940.]

SEC. 311. [Repealed April 4, 1996.]

[This section related to a privatization demonstration program, setting forth conditions under which outstanding Federal Financing Bank guaranteed loans could be prepaid without penalty and allow for the FFB guarantee to carry over to private capital used to finance the prepayments.]

[October 18, 1986, Public Law 99-500, §101(m) [Title VI, §623], 100 Stat. 1783-333; Oct. 30, 1986, Public Law 99-591, §101(m) [Title VI, §623], 100 Stat. 3341-333; Oct. 13, 1994, Public Law 103-354, Title II, §235(a)(7), (13), 108 Stat. 3221; April 4, 1996, Public Law 104-127, § 780, 110 Stat. 1151; 7 U.S.C. § 940a.] (NOTE: Legislation that enacted this section provided that its provisions "shall apply only to the rural electrification program in the State of Alaska." (Oct. 30, 1986 Public Law 99-591, Title VIII, Part C, §115, 100 Stat. 3341-352.))

SEC. 312. USE OF FUNDS.—A borrower of an insured or guaranteed electric loan under this Act may, without restriction or prior approval of the Secretary, invest its own funds or make loans or guarantees, not in excess of 15 percent of its total utility plant.

[Dec. 22, 1987, Public Law 100-203, Title I, Subtitle D, ch. 1, §1402, 101 Stat. 1330-21; Oct. 13, 1994, Public Law 103-354, Title II, Subtitle C, §235(a)(13), 108 Stat. 3221; 7 U.S.C. § 940b.]

SEC. 313.[7] [8]CUSHION OF CREDIT PAYMENTS PROGRAM

(a) ESTABLISHMENT.

(1) IN GENERAL.—The Secretary shall develop and promote a program to encourage borrowers to voluntarily make deposits into cushion of credit accounts established within the Rural Electrification and Telephone Revolving Fund.

(2) INTEREST.—Amounts in each cushion of credit account shall accrue interest to the borrower at a rate of 5 percent per annum.

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[7] See Archival References, page 117.

[8] Section 6209 of the 2014 Farm Bill provides that the Secretary shall collect data to measure the short and long-term viability of recipients and any entities to whom those recipients provide assistance using funds sourced with cushion of credit funds per (b)(2) of this section 313 of the RE Act (i.e. the “RDLG Program”).

(3) BALANCE.—A borrower may reduce the balance of its cushion of credit account only if the amount obtained from the reduction is used to make scheduled payments on loans made or guaranteed under this Act.

(b) USES OF CUSHION OF CREDIT PAYMENTS.

(1) IN GENERAL.

(A) CASH BALANCE.—Cushion of credit payments shall be held in the Rural Electrification and Telephone Revolving Fund as a cash balance in the cushion of credit accounts of borrowers.

(B) INTEREST.—All cash balance amounts (obtained from cushion of credit payments, loan payments, and other sources) held by the Fund shall bear interest to the Fund at a rate equal to the weighted average rate on outstanding certificates of beneficial ownership issued by the Fund.

(C) CREDITS.—The amount of interest accrued on the cash balances shall be credited to the Fund as an offsetting reduction to the amount of interest paid by the Fund on its certificates of beneficial ownership.

(2) RURAL ECONOMIC DEVELOPMENT SUBACCOUNT

(A) MAINTENANCE OF ACCOUNT.—The Secretary shall maintain a subaccount within the Rural Electrification and Telephone Revolving Fund to which shall be credited, on a monthly basis, a sum determined by multiplying the outstanding cushion of credit payments made after October 1, 1987, by the difference (converted to a monthly basis) between the average weighted interest rate paid on outstanding certificates of beneficial ownership issued by the Fund and the 5 percent rate of interest provided to borrowers on cushion of credit payments.

(B) GRANTS.—The Secretary is authorized, from the interest differential sums credited this subaccount and from any other funds made available thereto, to provide grants or zero interest loans to borrowers under this Act for the purpose of promoting rural economic development and job creation projects, including funding for project feasibility studies, start-up costs, incubator projects, and other reasonable expenses for the purpose of fostering rural development.

(C) REPAYMENTS.—In the case of zero interest loans, the Secretary shall establish such reasonable repayment terms as will ensure borrower participation.

(D) PROCEEDS.—All proceeds from the repayment of such loans shall be returned to the subaccount.

(E) NUMBER OF GRANTS.—Such loans and grants shall be made during each fiscal year to the full extent of the amounts held by the rural economic development subaccount, subject only to limitations as may be from time-to-time imposed by law.

[Dec. 22, 1987, Public Law 100-203, Title I, Subtitle D, ch. 1, §1403, 101 Stat. 1330-21; Oct. 13, 1994, Public Law 103-354, Title II, Subtitle C, §235(a)(13), 108 Stat. 3221; 7 U.S.C. § 940c.]

SEC. 313A.[9] GUARANTEES FOR BONDS AND NOTES ISSUED FOR ELECTRIFICATION OR TELEPHONE PURPOSES.

(a) IN GENERAL.—Subject to subsection (b), the Secretary shall guarantee payments on bonds or notes issued by cooperative or other lenders organized on a not-for-profit basis if the proceeds of the bonds or notes are used to make loans for any electrification or telephone purpose eligible for assistance under this Act, including section 4 or 201 or to refinance bonds or notes issued for such purposes.

(b) LIMITATIONS.

(1) OUTSTANDING LOANS.—A lender shall not receive a guarantee under this section for a bond or note if, at the time of the guarantee, the total principal amount of such guaranteed bonds or notes outstanding of the lender would exceed the principal amount of outstanding loans of the lender for eligible electrification or telephone purposes consistent with this Act.

(2) GENERATION OF ELECTRICITY.—The Secretary shall not guarantee payment on a bond or note issued by a lender, the proceeds of which are used for the generation of electricity.

(3) QUALIFICATIONS.—The Secretary may deny the request of a lender for the guarantee of a bond or note under this section if the Secretary determines that—

(A) the lender does not have appropriate expertise or experience or is otherwise not qualified to make loans for electrification or telephone purposes;

(B) the bond or note issued by the lender would not be investment grade quality without a guarantee; or

(C) the lender has not provided to the Secretary a list of loan amounts approved by the lender that the lender certifies are for eligible purposes described in subsection (a).

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[9] See Archival References, page 117.

(4) ANNUAL AMOUNT.—The total amount of guarantees provided by the Secretary under this section during a fiscal year shall not exceed $1,000,000,000, subject to the availability of funds under subsection (e).

(c) FEES.

(1) IN GENERAL.—A lender that receives a guarantee issued under this section on a bond or note shall pay a fee to the Secretary.

(2) AMOUNT.—

(A) IN GENERAL.—The amount of the annual fee paid for the guarantee of a bond or note under this section shall be equal to 30 basis points of the amount of the unpaid principal of the bond or note guaranteed under this section.

(B) PROHIBITION.—Except as otherwise provided in this subsection and subsection (e)(2), no other fees shall be assessed.

(3) PAYMENT.—

(A) A lender shall pay the fees required under this subsection on a semiannual basis.

(B) STRUCTURED SCHEDULE.—The Secretary shall, with the consent of the lender, structure the schedule for payment of the fee to ensure that sufficient funds are available to pay the subsidy costs for note or bond guarantees as provided for in subsection (e)(2).

(4) RURAL ECONOMIC DEVELOPMENT SUBACCOUNT.—Subject to subsection (e)(2), fees collected under this subsection shall be—

(A) Deposited into the rural economic development subaccount maintained under section 313(b)(2)(A), to remain available until expended; and

(B) used for the purposes described in section 313(b)(2)(B).

(d) GUARANTEES.

(1) IN GENERAL.—A guarantee issued under this section shall—

(A) be for the full amount of a bond or note, including the amount of principal, interest, and call premiums;

(B) be fully assignable and transferable; and

(C) represent the full faith and credit of the United States.

(2) LIMITATION.—To ensure that the Secretary has the resources necessary to properly examine the proposed guarantees, the Secretary may limit the number of guarantees issued under this section to 5 per year.

(3) DEPARTMENT OPINION.—On the timely request of a lender, the General Counsel of the Department of Agriculture shall provide the Secretary with an opinion regarding the validity and authority of a guarantee issued to the lender under this section.

(e) AUTHORIZATION OF APPROPRIATIONS.

(1) IN GENERAL.—There are authorized to be appropriated such sums as are necessary to carry out this section.

(2) FEES.—To the extent that the amount of funds appropriated for a fiscal year under paragraph (1) are not sufficient to carry out this section, the Secretary may use up to 1/3 of the fees collected under subsection (c) for the cost of providing guarantees of bonds and notes under this section before depositing the remainder of the fees into the rural economic development subaccount maintained under section 313(b)(2)(A).

(f) TERMINATION.—The authority provided under this section shall terminate on September 30, 2018.

[May 13, 2002, Public Law 107-171, Title VI, §6101(a), 116 Stat. 413; May 22, 2008, Public Law 110-234, Title VI, §6106(a), 122 Stat.1197; June 18, 2008, Public Law 110-246, §4(a), Title VI, § 6106(a), 122 Stat. 1664, 1958; Feb. 7, 2014, Public Law 113-79, Title VI, §6102, 128 Stat. 851; 7 U.S.C. § 940c-1.]

SEC. 314. LIMITATIONS ON AUTHORIZATION OF APPROPRIATIONS.

(a) ADJUSTMENT PERCENTAGE DEFINED.— As used in this section, the term 'adjustment percentage' means, with respect to a fiscal year, the percentage (if any) by which—

(1) the average of the Consumer Price Index (as defined in section 1(f)(5) of the Internal Revenue Code of 1986) for the 1-year period ending on July 31 of the immediately preceding fiscal year; exceeds

(2) the average of the Consumer Price Index (as so defined) for the 1-year period ending on July 31, 1993.

(b) FISCAL YEARS 1994 THROUGH 1998.—In the case of each of fiscal years 1994 through 1998, there are authorized to be appropriated to the Secretary such sums as may be necessary for the cost of loans in the following amounts, for the following purposes:

(1) ELECTRIC HARDSHIP LOANS.—For loans under section 305(c)(1) —

(A) for fiscal year 1994, $125,000,000; and

(B) for each of fiscal years 1995 through 1998, $125,000,000, increased by the adjustment percentage for the fiscal year.

(2) ELECTRIC MUNICIPAL RATE LOANS. —For loans under section 305(c)(2) —

(A) for fiscal year 1994, $600,000,000; and

(B) for each of fiscal years 1995 through 1998, $600,000,000, increased by the adjustment percentage for the fiscal year.

(3) TELEPHONE HARDSHIP LOANS.—For loans under section 305(d)(1) —

(A) for fiscal year 1994, $125,000,000; and

(B) for each of fiscal years 1995 through 1998, $125,000,000, increased by the adjustment percentage for the fiscal year.

(4) TELEPHONE COST-OF-MONEY LOANS.—For loans under section 305(d)(2) —

(A) for fiscal year 1994, $198,000,000; and

(B) for each of fiscal years 1995 through 1998, $198,000,000, increased by the adjustment percentage for the fiscal year.

(c) FUNDING LEVELS.—The Secretary shall make insured loans under this title for the purposes, in the amounts, and for the periods of time specified in subsection (b), as provided in advance in appropriations Acts.

(d) AVAILABILITY OF FUNDS FOR INSURED LOANS.—Amounts made available for loans under section 305 are authorized to remain available until expended.

[Nov. 5, 1990, Public Law 101-508, Subtitle B, §1201, 104 Stat. 1388-7; Nov. 1, 1993, Public Law 103-129, §2(b)(1), 107 Stat. 1362; Oct. 13, 1994, Public Law 103-354, Title II, Subtitle C, §235(a)(13), 108 Stat. 3221; 7 U.S.C. § 940d.]

SEC. 315. EXPANSION OF 911 ACCESS.

(a) IN GENERAL.—Subject to subsection (c) and such terms and conditions as the Secretary may prescribe, the Secretary may make loans under this title to entities eligible to borrow from the Rural Utilities Service, State or local governments, Indian tribes (as defined in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b)), or other public entities for facilities and equipment to expand or improve in rural areas—

(1) 911 access;

(2) integrated interoperable emergency communications, including multiuse networks that provide commercial or transportation information services in addition to emergency communications services;

(3) homeland security communications;

(4) transportation safety communications; or

(5) location technologies used outside an urbanized area.

(b) LOAN SECURITY.—Government-imposed fees related to emergency communications (including State or local 911 fees) may be considered to be security for a loan under this section.

(c) EMERGENCY COMMUNICATIONS EQUIPMENT PROVIDERS.—The Secretary may make a loan under this section to an emergency communication equipment provider to expand or improve 911 access or other communications or technologies described in subsection (a) if the local government that has jurisdiction over the project is not allowed to acquire the debt resulting from the loan.

(d) AUTHORIZATION OF APPROPRIATIONS.—The Secretary shall use to make loans under this section any funds otherwise made available for telephone loans for each of fiscal years 2008 through 2018.

[May 13, 2002, Public Law 107-171, Title VI, §6102, 116 Stat. 415; May 22, 2008, Public Law, 110-234, Title VI, §6107, 122 Stat. 1198; June 18, 2008, Public Law 100-246, §4(a), Title VI, §6107, 122 Stat. 1664, 1959; Feb. 7, 2014, Public Law 113-79, Title VI, § 6103, 128 Stat. 851; 7 U.S.C. § 940e.]

SEC. 316. EXTENSION OF PERIOD OF EXISTING GURANTEE.

(a) IN GENERAL.—Subject to the limitations in this section and the provisions of the Federal Credit Reform Act of 1990, as amended, a borrower of a loan made by the Federal Financing Bank and guaranteed under this Act may request an extension of the final maturity of the outstanding principal balance of such loan or any loan advance thereunder. If the Secretary and the Federal Financing Bank approve such an extension, then the period of the existing guarantee shall also be considered extended.

(b) LIMITATIONS.—

(1) FEASIBILITY AND SECURITY.—Extensions under this section shall not be made unless the Secretary first finds and certifies that, after giving effect to the extension, in his judgment

the security for all loans to the borrower made or guaranteed under this Act is reasonably adequate and that all such loans will be repaid within the time agreed.

(2) EXTENSION OF USEFUL LIFE OR COLLATERAL.—Extensions under this section shall not be granted unless the borrower first submits with its request either—

(A) evidence satisfactory to the Secretary that a Federal or State agency with jurisdiction and expertise has made an official determination, such as through a licensing proceeding, extending the useful life of a generating plant or transmission line pledged as collateral to or beyond the new final maturity date being requested by the borrower, or

(B) a certificate from an independent licensed engineer concluding, on the basis of a thorough engineering analysis satisfactory to the Secretary, that the useful life of the generating plant or transmission line pledged as collateral extends to or beyond the new final maturity date being requested by the borrower.

(3) AMOUNT ELIGIBLE FOR EXTENSION.—Extensions under this section shall not be granted if the principal balance extended exceeds the appraised value of the generating plant or transmission line referred to in subsection paragraph (2).

(4) PERIOD OF EXTENSION.—Extensions under this section shall in no case result in a final maturity greater than 55 years from the time of original disbursement and shall in no case result in a final maturity greater than the useful life of the plant.

(5) NUMBER OF EXTENSIONS.—Extensions under this section shall not be granted more than once per loan advance.

(c) FEES.—

(1) IN GENERAL.—A borrower that receives an extension under this section shall pay a fee to the Secretary which shall be credited to the Rural Electrification and Telecommunications Loans Program account. Such fees shall remain available without fiscal year limitation to pay the modification costs for extensions.

(2) AMOUNT.—The amount of the fee paid shall be equal to the modification cost, calculated in accordance with section 502 of the Federal Credit Reform Act of 1990, as amended, of such extension.

(3) PAYMENT.—The borrower shall pay the fee required under this section at the time the existing guarantee is extended by making a payment in the amount of the required fee.

[November 10, 2005, Public Law 109-97, Title VII, §774, 119 Stat. 2160; 7 U.S.C. § 940f.]

SEC. 317. ELECTRIC LOANS FOR RENEWABLE ENERGY.

(a) DEFINITION OF RENEWABLE ENERGY SOURCE.—In this section, the term "renewable energy source" means an energy conversion system fueled from a solar, wind, hydropower, biomass, or geothermal source of energy.

(b) LOANS.—In addition to any other funds or authorities otherwise made available under this Act, the Secretary may make electric loans under this title for electric generation from renewable energy resources for resale to rural and nonrural residents.

(c) RATE.—The rate of a loan under this section shall be equal to the average tax-exempt municipal bond rate of similar maturities.

[May 22, 2008, Public Law, 110-234, Title VI, §6108, 122 Stat. 1198; June 18, 2008, Public Law 110-246, §4(a), Title VI, § 6108, 122 Stat. 1664, 1959; 7 U.S.C. § 940g.]

SEC. 318. BONDING REQUIREMENTS.

The Secretary shall review the bonding requirements for all programs administered by the Rural Utilities Service under this Act to ensure that bonds are not required if—

(1) the interests of the Secretary are adequately protected by product warranties; or

(2) the costs or conditions associated with a bond exceed the benefit of the bond.

[May 22, 2008, Public Law 110-234, Title VI, §6109, 122 Stat. 1198; June 18, 2008, Public Law 110-246, §4(a), Title VI, § 6109, 122 Stat. 1664, 1960; 7 U.S.C. § 940h.]

TITLE IV—RURAL TELEPHONE BANK[10]

SEC. 401. TELEPHONE BANK.

(a) There is hereby established a body corporate to be known as the Rural Telephone Bank (hereinafter called the telephone bank).

(b) The general purposes of the telephone bank shall be to obtain an adequate supply of supplemental funds to the extent feasible from non-Federal sources, to utilize said funds in the making of loans under section 408 of this title, and to conduct its operations to the extent practicable on a self-sustaining basis.

(c) the telephone bank shall be deemed to be an instrumentality of the United States, and shall, for the purposes of jurisdiction and venue, be deemed a citizen and resident of the District of Columbia. The telephone bank is authorized to make payments to State, territorial, and local governments in lieu of property taxes upon real property and tangible personal property which was subject to State, territorial and local taxation before acquisition by the telephone bank. Such payment may be in the amounts, at the times, and upon such terms as the telephone bank deems appropriate but the telephone bank shall be guided by the policy of making payments not in excess of the taxes which would have been payable upon such property in the condition in which it was acquired.

[May 7, 1971, Public Law 92-12, §2, 85 Stat. 30; 7 U.S.C. § 941.]

SEC. 402. GENERAL POWERS.—To carry out the specific powers herein authorized, the telephone bank shall have power to (a) adopt, alter, and use a corporate seal; (b) sue and be sued in its corporate name; (c) make contracts, leases, and cooperative agreements, or enter into other transactions as may be necessary in the conduct of its business, and on such terms as it may deem appropriate;

[10] On August 4, 2005 the Board of Directors of the Rural Telephone Bank unanimously approved Resolution No. 2005-8, resolving "that the Board approve the liquidation and dissolution of the Bank in accordance with Section 411 of the Act, subject to there being no legal restriction on the redemption of Class A Stock." On November 10, 2005, the legal restriction was lifted with the signing of the 2006 Agriculture Appropriations bill by President Bush. On April 10, 2006 the Government's Class A stock was redeemed, and a day later 90% of the Class B and C shareholders were paid. All remaining funds were distributed to the shareholders by September 30, 2006; the liquidation was complete once all remaining funds were distributed to the shareholders and a closing audit and final report were submitted to the Board.

(d) acquire, in any lawful manner, hold, maintain, use, and dispose of property: Provided, That the telephone bank may only acquire property needed in the conduct of its banking operations or pledged or mortgaged to secure loans made hereunder or in temporary operation or maintenance thereof: Provided further, That any such pledged or mortgaged property so acquired shall be disposed of as promptly as is consistent with prudent liquidation practices, but in no event later than five years after such acquisition; (e) accept gifts or donations of services or of property in aid of any of the purposes herein authorized; (f) appoint such officers attorneys, agents, and employees, vest them with such powers and duties, fix and pay such compensation to them for their services as the telephone bank may determine; (g) determine the character of and the necessity for its obligations and expenditures, and the manner in which they shall be incurred, allowed, and paid; (h) execute, in accordance with its bylaws, all instruments necessary or appropriate in the exercise of any of its powers; (i) collect or compromise all obligations assigned to or held by it and all legal or equitable rights accruing to it in connection with the payment of such obligations until such time as such obligations may be referred to the Attorney General for suit or collection; and (j) exercise all such other powers as shall be necessary or incidental to carrying out its functions under this title.

[May 7, 1971, Public Law 92-12, §2, 85 Stat. 30; 7 U.S.C. § 942.]

SEC. 403. SPECIAL PROVISIONS GOVERNING TELEPHONE BANK AS FEDERAL AGENCY UNTIL CONVERSION OF OWNERSHIP, CONTROL, AND OPERATION.

Until the ownership, control, and operation of the telephone bank is converted as provided in section 410(a) of this title and not thereafter

(a) The telephone bank shall be an agency of the United States and shall be subject to the supervision and direction of the Secretary of Agriculture (hereinafter called the Secretary): Provided, however, That the telephone bank shall at no time be entitled to transmission of its mail free of postage, nor shall it have the priority of the United States in the payment of debts out of bankrupt, insolvent, and decedents' estates;

(b) in order to perform its responsibilities under this title, the telephone bank may partially or jointly utilize the facilities and the services of employees of the Secretary, without cost to the telephone bank;

(c) the telephone bank shall be subject to the provisions of the Government Corporation Control Act, as amended (31 U.S.C. 841, *et* *seq*.), in the same manner and to the same extent as if it were included in the definition of "wholly owned Government corporation" as set forth in section 101 of said Act (31 U.S.C. 846);

(d) the telephone bank may without regard to the civil service classification laws appoint and fix the compensation of such officers and employees of the telephone bank as it may deem necessary;

(e) the telephone bank shall be subject to the provisions of sections 517, 519, and 2679 of title 28, United States Code.

[May 7, 1971, Public Law 92-12, §2, 85 Stat. 31; Oct. 13, 1994, Public Law 103-354, Title II, Subtitle C, §235(a)(9), 108 Stat. 3221; 7 U.S.C. § 943.]

SEC. 404. GOVERNOR OF TELEPHONE BANK; FUNCTIONS, POWERS AND DUTIES.

Subject to the provisions of section 410, the Secretary shall designate an official of the Department of Agriculture who shall serve as the chief executive officer of the telephone bank (herein called the Governor of the telephone bank). Except as to matters specifically reserved to the Telephone Bank Board in this title, the Governor of the telephone bank shall exercise and perform all functions, powers, and duties of the telephone bank.

[May 7, 1971, Public Law 92-12, §2, 85 Stat. 31; Oct. 13, 1994, Public Law 103-354, Title II, Subtitle C, §235(a)(10), 108 Stat. 3221; 7 U.S.C. § 944.]

SEC. 405. BOARD OF DIRECTORS.

(a) IN GENERAL.—The management of the telephone bank, within the limitations prescribed by law, shall be vested in a board of directors (in this title referred to as the "Telephone Bank Board").

(b) MEMBERSHIP.—The Telephone Bank Board shall consist of thirteen individuals as follows:

(1) PRESIDENTIAL APPOINTEES.—The President shall appoint seven individuals to serve on the Telephone Bank Board who shall serve at the pleasure of the President—

(A) five of whom shall be officers or employees of the Department of Agriculture and not officers or employees of the Secretary [sic]; and

(B) two of whom shall be from the general public and not officers or employees of the Federal Government.

(2) COOPERATIVE MEMBERS.—The cooperative-type entities, and organizations controlled by such entities, that hold class B or class C stock shall elect three individuals to serve on the Telephone Bank Board for a term of two years, by a plurality vote of the stockholders voting in the election.

(3) COMMERCIAL MEMBERS.—The commercial-type entities, and the organizations controlled by such entities, that hold class B or class C stock shall elect three individuals to serve on the Telephone Bank Board for a term of two years, by a plurality vote of the stockholders voting in the election.

(c) ELECTIONS.

(1) VALIDITY.—An election under paragraph (2) or (3) of subsection (b) shall not be considered valid unless a majority of the stockholders eligible to vote in the election have voted in the election.

(2) BALLOTING.—Balloting in an election under paragraph (2) or (3) of subsection (b) shall be conducted by mail pursuant to the procedures authorized in the bylaws of the telephone bank.

(3) NO CUMULATIVE VOTING.—Cumulative voting shall not be permitted in any election under paragraph (2) or (3) of subsection (b).

(d) COMPENSATION.

(1) IN GENERAL.—Except as provided in paragraph (2), each member of the Telephone Bank Board shall receive $100 per day for each day or part thereof, not to exceed fifty days per year, spent in the performance of their official duties, and shall be reimbursed for travel and other expenses in such manner and subject to such limitations as the Telephone Bank Board may prescribe.

(2) EXCEPTIONS.—The five members of the Telephone Bank Board appointed under subsection (b)(1)(A) shall not receive compensation by reason of their service on the Telephone Bank Board.

(e) SUCCESSION.—A member of the Telephone Bank Board may serve after the expiration of the term of office of such member until the successor for such member has taken office.

(f) CHAIRPERSON.—The members of the Telephone Bank Board shall elect one of such members to be the Chairperson of the Board, in accordance with the bylaws of the telephone bank. The Chairperson shall preside at all meetings of the Board and may vote on a matter before the Board unless the vote would result in a tie vote on the matter.

(g) BYLAWS.—The Telephone Bank Board shall prescribe bylaws, not inconsistent with law, regulating the manner in which the telephone bank's business shall be conducted, its directors and officers elected, its stock issued, held, and disposed of, its property transferred, its bylaws amended, and the powers and privileges granted to it by law and exercised and enjoyed.

(h) MEETINGS.—The Telephone Bank Board shall meet at such times and places as it may fix and determine, but shall hold at least four regularly scheduled meetings a year, and special meetings may be held on call in the manner specified in the bylaws of the telephone bank.

(i) ANNUAL REPORT.—The Telephone Bank Board shall make an annual report to the Secretary for transmittal to the Congress on the administration of this title IV and any other matters relating to the effectuation of the policies of title IV, including recommendations for legislation.[11]

(j) OPEN MEETINGS.—For purposes of section 552b of title 5, United States Code, the Telephone Bank Board shall be treated as an agency within the meaning of subsection (a)(l) of such section.

[May 7, 1971, Public Law 92-12, §2, 85 Stat. 32; May 11, 1973, Public Law 93-32, §4, 87 Stat. 70; Nov. 28, 1990, Public Law 101-624, Title XXIII, Subtitle F, ch. 4, §2363(a), (b)(1), (c), 104 Stat. 4042, 4044; Oct. 13, 1994, Public Law 103-354, Title II, Subtitle C, §235(a)(7), 108 Stat. 3221; 7 U.S.C. § 945.]

SEC. 406. CAPITALIZATION.

(a) FEDERAL AND BORROWER SUBSCRIPTIONS; FEDERAL LIMITATION; REPORT TO PRESIDENT; TRANSMITTAL TO CONGRESS; NET COLLECTION PROCEEDS.

The telephone bank's capital shall consist of capital subscribed by the United States, by borrowers from the telephone bank, by corporations and public bodies eligible to become borrowers from the telephone bank, and by organizations controlled by such borrowers, corporations, and public bodies. Beginning with the fiscal year 1971 and for each fiscal year thereafter but not later than fiscal year 1991,

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[11] for termination of this subsection (i) relating to transmittal of an annual report to Congress effective May 15, 2000, see Public Law 104-66, §3003, as amended, set out as a note under 31 U.S.C.A. §1113 and page 45 of House Doc. No. 103-7 (the list of reports government-wide to be submitted to Congress as prepared by the Clerk of the House of Representatives for the first session of the 103rd Congress under clause 2 of rule III of the Rules of the House of Representatives.)

the United States shall furnish capital for the purchase of class A stock and there are hereby authorized to be appropriated such amounts, not to exceed $30,000,000 annually, for such purchases until such class A stock shall equal $600,000,000, Provided, That on or before July 1, 1975, the Secretary shall make a report to the President for transmittal to the Congress on the status of capitalization of the telephone bank by the United States with appropriate recommendations. As used in this section and section 301, the term "net collection proceeds" shall be deemed to mean payments from and after July 1, 1969, of principal and interest on loans heretofore or hereafter made under section 201 of this Act, less an amount representing interest payable to the Secretary of the Treasury on loans to the Secretary for telephone purposes.

(b) STOCK CLASSIFICATION; VOTING STOCK; ONE VOTE RULE.—The capital stock of the telephone bank shall consist of three classes, class A, class B. and class C, the rights, powers, privileges, and preferences of the separate classes to be as specified, not inconsistent with law, in the bylaws of the telephone bank. Class B and class C stock shall be voting stock, but no holder of said stock shall be entitled to more than one vote, nor shall class B and class C stockholders, regardless of their number, which are owned or controlled by the same person group of persons, firm, association, or corporation, be entitled in any event to more than one vote.

(c) CLASS A STOCK; ISSUANCE TO THE SECRETARY OF AGRICULTURE AND REDEMPTION; CUMULATIVE RETURN. —Class A stock shall be issued only to the Secretary on behalf of the United States in exchange for capital furnished to the telephone bank pursuant to subsection (a), and such class A stock shall be redeemed and retired by the telephone bank as soon as practicable after September 30, 1995, but not to the extent that the Telephone Bank Board determines that such retirement will impair the operations of the telephone bank: Provided, That the minimum amount of class A stock that shall be retired each year after said date shall equal the amount of class B stock sold by the telephone bank during such year. Class A stock shall be entitled to a return, payable from income, at the rate of 2 per centum per annum on the amounts of said class A stock actually paid into the telephone bank. Such return shall be cumulative and shall be payable annually into miscellaneous receipts of the Treasury.

(d) CLASS B STOCK; BORROWERS AS HOLDERS; DIVIDEND PROHIBITION; PATRONAGE REFUNDS.—Class B stock shall be held only by recipients of loans under section 408 of this Act. Borrowers receiving loan funds pursuant to section 408(a)(1) or (2) shall be required to invest in class B stock 5 per centum of the amount of loan funds so provided by having an amount equal to 5 per centum of the amount of each loan advance, at the time of such advance. No dividends shall be payable on class B stock. All holders of class B stock shall be entitled to patronage refunds in class B stock under terms and conditions to be specified in the bylaws of the telephone bank.

(e) CLASS C STOCK; BORROWER AS PURCHASERS; DIVIDENDS.—Class C stock shall be available for purchase and shall be held only by borrowers, or by corporations and public bodies eligible to borrow under section 408 of this Act, or by organizations controlled by such borrowers, corporations and public bodies, and shall be entitled to dividends in the manner specified in the bylaws of the telephone bank. Such dividends shall be payable only from income and, until all class A stock is retired, shall not exceed the current average rate payable on its telephone debentures.

(f) SPECIAL FUND REQUIREMENTS.—If a firm, association, corporation, or public body is not authorized under the laws of the jurisdiction in which it is organized to acquire stock of the telephone bank, the telephone bank shall, in lieu thereof, permit such organization to pay into a special fund of the telephone bank a sum equivalent to the amount of stock to be purchased. Each reference in this title to capital stock, or to class B. or class C stock, shall include also the special fund equivalents of such stock, and to the extent permitted under the laws of the jurisdiction in which such organization is organized, a holder of special fund equivalents of class B or class C stock, shall have the same rights and status as a holder of class B or class C stock, respectively. The rights and obligations of the telephone bank in respect of such special fund equivalent shall be identical to its rights and obligations in respect of class B or class C stock, respectively.

(g) PATRONAGE REFUNDS FROM REMAINING EARNINGS AFTER PROVISION FOR OPERATING EXPENSES, RESERVES FOR LOSSES, PAYMENTS IN LIEU OF TAXES, AND RETURNS ON CLASS A AND C STOCK.—After payment of all operating expenses of the telephone bank, including interest on its telephone debentures, setting aside appropriate funds for the reserve for loan losses, and making payment in lieu of taxes, and returns on class A stock as provided in section 406(c), and on class C stock, the Telephone Bank Board shall annually set aside the remaining earnings of the telephone bank for patronage refunds in accordance with the bylaws of the telephone bank. The telephone bank may not establish any reserve other than the reserves referred to in this subsection and in subsection (h).

(h) RESERVE FOR LOSSES DUE TO INTEREST RATE FLUCTUATIONS.—There is hereby established in the telephone bank a reserve for losses due to interest rate fluctuations. Within 30 days after the date of the enactment of this subsection, the Governor of the telephone bank shall transfer to the reserve for losses due to interest rate fluctuations all amounts in the reserve for contingencies as of the date of the enactment of this subsection. All amounts so transferred shall not be transferred, directly or indirectly, to the reserve for contingencies. Amounts in the reserve for interest rate fluctuations may be expended only to cover operating losses of the telephone bank (other than losses attributable to loan defaults) and only after taking into consideration any recommendations made by the General Accounting Office under section 1413(b) of the Omnibus Budget Reconciliation Act of 1987.

(i) INVESTMENT OF RTB EQUITY FUND.—The Governor of the telephone bank may invest in obligations of the United States the amounts in the account in the Treasury of the United States numbered 12X8139 (known as the 'RTB Equity Fund').

[May 7, 1971, Public Law 92-12, §2, 85 Stat. 33; May 11, 1973, Public Law 93-32, §5, 87 Stat. 70; April 21, 1976, Public Law 94-273, §2(2), 90 Stat. 375; Dec. 22, 1981, Public Law 97-98, Title XVI, §1607, 95 Stat. 1347; Dec. 22, 1987, Public Law 100-203, Title I, Subtitle D, ch. 2, §1413(a), (c), 101 Stat. 1330-26, 1330-27; Nov. 28, 1990, Public Law 101-624, Title XXIII, Subtitle F, ch. 4, §§2364, 2367(a), 104 Stat. 4044; Nov. 1, 1993, Public Law 103-129, §2(c)(9), 107 Stat. 1365; Oct. 13, 1994, Public Law 103-354, Title II, Subtitle C, §235(a)(11), (13), 108 Stat. 3221; Apr. 4, 1996, Public Law 104-127, Title VII, Subtitle C, §772(b)(3), 110 Stat. 1149; 7 U.S.C. § 946.]

SEC. 407. BORROWING POWER, TELEPHONE DEBENTURES ISSUANCE; INTEREST RATES, TERMS AND CONDITIONS, RATIO TO PAID-IN CAPITAL AND RETAINED EARNINGS; INVESTMENTS IN DEBENTURES, DEBENTURES AS SECURITY: PURCHASE AND SALE OF DEBENTURES BY SECRETARY OF TREASURY; TREAT-MENT AS PUBLIC DEBT TRANSACTIONS OF UNITED STATES—EXCLUSION OF TRANSACTIONS FROM DEBT TOTALS.

(a) The telephone bank is authorized to obtain funds through the public or private sale of its bonds, debentures, notes and other evidences of indebtedness (herein collectively called telephone debentures). Telephone debentures shall be issued at such times, bear interest at such rates, and contain such other terms and conditions as the Telephone Bank Board shall determine: Provided, however, That the amount of the telephone debentures which may be outstanding at any one time pursuant to this section shall not exceed twenty times the paid-in capital and retained earnings of the telephone bank. Telephone debentures shall not be exempt, either as to principal or interest from any taxation now or hereafter imposed by the United States, by any territory, dependency, or possession thereof, or by any State or local taxing authority. Telephone debentures shall be lawful investments and may be accepted as security for all fiduciary, trust, and public funds, the investment or deposit of which shall be under the authority and control of the United States or any officer or officers thereof.

(b) The Telephone Bank is also authorized to issue telephone debentures to the Secretary of the Treasury, and the Secretary of the Treasury may in his discretion purchase any such debentures, and for such purpose the Secretary of the Treasury is authorized to use as a public debt transaction the proceeds of the sale of any securities hereafter issued under the Second Liberty Bond Act, as now or hereafter in force, and the purposes for which securities may be issued under the Second Liberty Bond Act as now or hereafter in force are extended to include such purchases. Each purchase of telephone debentures by the Secretary of the Treasury under this subsection shall be upon such terms and conditions as to yield a return at a rate not less than a rate determined by the Secretary of the Treasury, taking into consideration the current average yield on outstanding marketable obligations of the United States of comparable maturity. The Secretary of the Treasury may sell upon such terms and conditions and at such price or prices as he shall determine any of the telephone debentures acquired by him under this subsection. All purchases and sales by the Secretary of the Treasury of such debentures under this subsection shall be treated as public debt transactions of the United States.

(c) Purchases and resales by the Secretary of the Treasury as authorized in subsection (b) of this section shall not be included in the totals of the budget of the United States Government and shall be exempt from any general limitation imposed by statute on expenditures and net lending (budget outlays) of the United States.

[May 7, 1971, Public Law 92-12, §2, 85 Stat. 34; June 30, 1972, Public Law 92-324, §2, 86 Stat. 390; May 11, 1973, Public Law 93-32, §§6, 7, 87 Stat. 70; 7 U.S.C. § 947.]

SEC. 408. LENDING POWER.

(a) LOANS FOR PRESCRIBED PURPOSES; REQUISITE CONDITIONS.—The Governor of the telephone bank shall make loans on behalf of the telephone bank, to the extent that there are qualifying applications therefor, subject only to limitations as to amounts authorized for loans and advances as may be imposed by law enacted by the Congress of the United States for loans to be made in any one year, and in conformance with policies approved by the Telephone Bank Board, to corporations and public bodies which have received a loan or loan commitment pursuant to section 201 of this Act, or which have been certified by the Secretary to be eligible for such a loan or loan commitment, (1) for the same purposes and under the same limitations for which loans may be made under section 201 of this Act, (2) for the acquisition, purchase and Installation of telephone lines, systems, and facilities (other than buildings used primarily for administrative purposes, vehicles not used primarily in construction and customer premise equipment) related to the furnishing, improvement, or extension of rural telecommunications service, and (3) for the purchase of class B stock required to be purchased under Section 406(d) of this Act but not for the purchase of class C stock, subject, as to the purposes set forth in (2) hereof, to the following provisos: That in the case of any such loan for the acquisition of telephone lines, facilities, or systems, the acquisition shall be approved by the Secretary, the location and character thereof shall be such as to improve the efficiency effectiveness, or financial stability of the telephone system of the borrower, and in respect of exchange facilities for local services, the size of each acquisition shall not be greater than the borrower's existing system at the time it receives its first loan from the telephone bank, taking into account the number of subscribers served, miles of line, and plant investment. Loans and advances made under this section shall not be included in the totals of the budget of the United States Government and shall be exempt from any general limitation imposed by statute on expenditures and net lending (budget outlays) of the United States.

(b) TERMS AND CONDITIONS OF LOANS; RESTRICTIONS ON LOANS.—Loans under this section shall be on such terms and conditions as the Governor of the telephone bank shall determine, subject, however, to the following restrictions:

(1) AMORTIZATION PERIOD.—All loans made under this section shall be fully amortized over a period not to exceed fifty years.

(2) PREFERENCE ON LOANS; ELECTION OF LOANS FOR TELEPHONE SYSTEM WITH CERTAIN SUBSCRIBER DENSITY PER MILE.—Funds to be loaned under this Act to any borrower shall be loaned under this section in preference to section 201 if the borrower is eligible for such a loan and funds are

available therefor. Notwithstanding the foregoing or any other provision of law, all loans made pursuant to this Act for facilities for telephone systems with an average subscriber density of three or fewer per mile shall be made under section 201 of this Act; but this provision shall not preclude the making of such loans from the telephone bank at the election of the borrower.

(3) INTEREST RATE.—(A) Loans under this section shall bear interest at the "cost of money rate." The cost of money rate is defined as the average cost of moneys to the telephone bank as determined by the Governor, but not less than 5 per centum per annum.

(B) On and after December 22, 1987, advances made on or after such date under loan commitments made on or after October 1, 1987, shall bear interest at the rate determined under subparagraph (C), but in no event at a rate that is less than 5 percent per annum.

(C) The rate determined under this subparagraph shall be

(i) for the period beginning on the date the advance is made and ending at the close of the fiscal year in which the advance is made, the average yield (on the date of the advance) on outstanding marketable obligations of the United States having a final maturity comparable to the final maturity of the advance, and

(ii) after the fiscal year in which the advance is made, the cost of money rate for such fiscal year, as determined under subparagraph (D).

(D) Within 30 days after the end of each fiscal year, the Governor shall determine to the nearest 0.01 percent the cost of money rate for the fiscal year, by calculating the sum of the results of the following calculations:

(i) The aggregate of all amounts received by the telephone bank during the fiscal year from the issuance of class A stock multiplied by the rate of return payable by the telephone bank during the fiscal year, as specified in section 406(c), to holders of class A stock, which product is divided by the aggregate of the amounts advanced by the telephone bank during the fiscal year.

(ii) The aggregate of all amounts received by the telephone bank during the fiscal year from the issuance of class B stock multiplied by the rate at which dividends are payable by the telephone bank during the fiscal year as specified in section 406(d), to holders of class B stock, which product is divided by the aggregate of the amounts advanced by the telephone bank during the fiscal year. For purposes of the calculation under this subparagraph, such rate shall be zero.

(iii) The aggregate of all amounts received by the telephone bank during the fiscal year from the issuance of class C stock multiplied by the rate at which dividends are payable by the telephone bank during the fiscal year, under section 406(e), to holders of class C stock, which product is divided by the aggregate of the amounts advanced by the telephone bank during the fiscal year.

(iv) (I) The sum of the results of the calculation described in the subclause (II).

(II) The amounts received by the telephone bank during the fiscal year from each issue of telephone debentures and other obligations of the telephone bank, multiplied, respectively, by the rates at which interest is payable during the fiscal year by the telephone bank to holders of each issue, each of which products is divided, respectively, by the aggregate of the amounts advanced by the telephone bank during the fiscal year.

(v) (I) The amount by which the aggregate of the amounts advanced by the telephone bank during the fiscal year exceeds the aggregate of the amounts received by the telephone bank from the Issuance of class A stock, class B stock, class C stock, and telephone debentures and other obligations of the telephone bank during the fiscal year, multiplied by the historic cost of money rate as of the close of the fiscal year immediately preceding the fiscal year, which product is divided by the aggregate of the amounts advanced by the telephone bank during the fiscal year.

(II) For purposes of this clause, the term "historic cost of money rate", with respect to the close of a preceding fiscal year, means the sum of the results of the following calculations: The amounts advanced by the telephone bank in each fiscal year during the period beginning with fiscal year 1974 and ending with the preceding fiscal year, multiplied, respectively, by the cost of money rate for the fiscal year (as set forth in the table in subparagraph (E)) for fiscal years 1974 through 1987, and as determined by the Governor under this subparagraph for fiscal years after fiscal year 1987) each of which products is divided, respectively, by the aggregate of the amounts advanced by the telephone bank during the period.

(E) For purposes of subparagraph (D)(II)[sic][12], the cost of money rate for the fiscal years in which each advance was

[12] probably should be "D(v)(II)"

made shall be as set forth in the following table:

For advances made in-	The cost of money rate shall be-
Fiscal year 1974	5.01 percent
Fiscal year 1975	5.85 percent
Fiscal year 1976	5.33 percent
Fiscal year 1977	5.00 percent
Fiscal year 1978	5.87 percent
Fiscal year 1979	5.93 percent
Fiscal year 1980	8.10 percent
Fiscal year 1981	9.46 percent
Fiscal year 1982	8.39 percent
Fiscal year 1983	6.99 percent
Fiscal year 1984	6.55 percent
Fiscal year 1985	5.00 percent
Fiscal year 1986	5.00 percent
Fiscal year 1987	5.00 percent

For purposes of this subparagraph, the term "fiscal year" means the 12month period ending on September 30 of the designated year.

(F) (i) Notwithstanding subparagraph (B), if a borrower holds a commitment for a loan under this section made on or after October 1, 1987, and before the date of the enactment of this paragraph, part or all of the proceeds of which have not been advanced as of such date of enactment, the borrower may, until the later of the date the next advance under the loan commitment is made or 90 days after such date of enactment, elect to have the interest rate specified in the loan commitment apply to the unadvanced portion of the loan in lieu of the rate which (but for this clause) would apply to the unadvanced portion under this paragraph. If any borrower makes an election under this clause with respect to a loan, the Governor shall adjust the interest rate which applies to the unadvanced portion of the loan accordingly.

(ii) (I) If the telephone bank, pursuant to section 407(b), issues telephone debentures on any date to refinance telephone debentures or other obligations of the telephone bank, the telephone bank shall, in addition to any interest rate reduction required by any other provision of this paragraph, for the period applicable to the advance, reduce the interest rate charged on each advance made under this section during the fiscal year in which the refinanced debentures or other obligations were originally issued by the amount applicable to the advance.

(II) For the purposes of subclause (I), the term "the period applicable to the advance" means the period beginning on the issue date described in subclause (I) and ending on the earlier of the date the advance matures or is completely prepaid.

(III) For purposes of subclause (I), the term "the amount applicable to the advance" means an amount which fully reflects that percentage of the funds saved by the telephone bank as a result of the refinancing which is equal to the percentage representation of the advance in all advances described in subclause (I).

(IV) Within 60 days after any issue date described in subclause (I), the Governor shall amend the loan documentation for each advance described in subclause (I), as necessary, to reflect any interest rate reduction applicable to the advance by reason of this clause, and shall notify each affected borrower of the reduction.

(G) Within 30 days after the publication of any determination made under subparagraph (D), any affected borrower may obtain review of the determination, or any other equitable relief as may be determined appropriate by the United States court of appeals for the judicial circuit in which the borrower does business by filing a written petition requesting the court to set aside or modify such determination. On receipt of such a petition, the clerk of the court shall transmit a copy of the petition to the Governor. On receipt of a copy of such a petition from the clerk of the court, the Governor shall file with the court the record on which the determination is based. The court shall have jurisdiction to affirm, set aside, or modify the determination.

(H) Within 5 days after determining the cost of money rate for a fiscal year, the Governor shall

(i) cause the determination to be published in the Federal Register in accordance with section 552 of title 5, United States Code; and

(ii) furnish a copy of the determination to the Comptroller General of the United States.

(I) The telephone bank shall not sell or otherwise dispose of any loan made under this section, except as provided in this paragraph.

(4) REQUIRED QUALIFICATIONS OF APPLICANTS.—The Governor of the telephone bank may make a loan under this section only to an applicant for the loan who meets the following requirements:

(A) The average number of subscribers per mile of line in the service area of the applicant is not more than 15, or the applicant is capable of producing net income or margins before interest of not less than 100 percent (but not more than 500 percent) of the interest requirements on all of the outstanding and proposed loans of the applicant.

(B) The Secretary has approved, under section 305(d)(3), a telecommunications modernization plan for the State in which the applicant is located and, if the plan was developed by telephone borrowers under title III, the applicant is a participant in the plan.

(5) CERTIFICATE OF CONVENIENCE AND NECESSITY REQUIRED FROM STATE REGULATORY AGENCY OR STATEMENT OF TELEPHONE BANK'S GOVERNOR OF NONDUPLICATION OF LINES, FACILITIES, OR SYSTEMS.—No loan shall be made in any State which now has or may hereafter have a State regulatory body having authority to regulate telephone service and to require certificates of convenience and necessity to the applicant unless such certificate from such agency is first obtained. In a State in which there is no such agency or regulatory body legally authorized to issue such certificates to the applicant, no loan shall be made under this section unless the Governor of the telephone bank shall determine (and set forth his reasons therefor in writing) that no duplication of lines, facilities, or systems, providing reasonably adequate services will result therefrom.

(6) DEFINITIONS: TELEPHONE SERVICE; TELEPHONE LINES, FACILITIES, OR SYSTEMS.—As used in this section, the term telephone service shall have the meaning prescribed for this term in section 203(a) of this Act, and the term telephone lines, facilities, or systems shall mean lines, facilities or systems used in the rendition of such telephone service.

(7) SALE OR DISPOSAL OF PROPERTY, RIGHTS, OR FRANCHISES PRIOR TO REPAYMENT OF LOAN.—No

borrower of funds under this section 408 shall, without approval of the Governor of the telephone bank under rules established by the Telephone Bank Board, sell or dispose of its property, rights, or franchises, acquired under the provisions of this Act, until any loan obtained from the telephone bank, including all interest and charges, shall have been repaid.

(8) PREPAYMENT WITHOUT PENALTY.—(A) A borrower with a loan from the Rural Telephone Bank may prepay such loan (or any part thereof) by paying the face amount thereof without being required to pay the prepayment penalty set forth in the note covering such loan, except for any prepayment penalty provided for in a loan agreement entered into before the date of enactment of the Rural Electrification Loan Restructuring Act of 1993.

(B) If a borrower prepays part or all of a loan made under this section, then notwithstanding section 407(b), the Governor of the telephone bank shall—

(i) use the full amount of the prepayment to repay obligations of the telephone bank issued pursuant to section 407(b) before October 1, 1991, to the extent any such obligations are outstanding, and

(ii) in repaying the obligations, first repay the advances bearing the greatest rate of interest.

(9) DETERMINATION OF AMOUNT AVAILABLE TO LOAN.—On request of any applicant for a loan under this section during any fiscal year, the Governor of the telephone bank shall—

(A) consider the application to be for a loan under this section and a loan under section 305(d)(2); and

(B) if the applicant is eligible for a loan, make a loan to the applicant under this section in an amount equal to the amount that bears the same ratio to the total amount of loans for which the applicant is eligible under this section and under section 305(d)(2), as the amount made available for loans under this section for the fiscal year bears to the total amount made available for loans under this section and under section 305(d)(2) for the fiscal year.

(10) APPLICATION AS COST-OF-MONEY LOAN REQUEST.—On request of any applicant who is eligible for a loan under this section for which funds are not available, the applicant shall be considered to have applied for a loan under section 305(d)(2).

(c) The Governor of the telephone bank is authorized under rules established by the Telephone Bank Board to adjust, on an amortized basis, the schedule of payments of interest or principal of loans made under this section upon his determination that with such readjustment there is reasonable assurance of repayment: Provided, however, That no adjustment shall extend the period of such loans beyond fifty years.

(d) BORROWERS TO DETERMINE AMORTIZATION PERIOD FOR RURAL TELEPHONE BANK LOANS.—(1) Except as provided in paragraph (2), the term of any loan made under this title shall be determined by the borrower at the time the application for the loan is submitted.

(2) The term of any loan made under this title shall not exceed the maximum term for which a loan may be made under section 4.

(e) INTEREST ON LOANS AND ADVANCES.—Loans and advances made under this section on or after November 5, 1990, shall bear interest at a rate determined under this section, taking into account all assets and liabilities of the telephone bank. This subsection shall not apply to loans obligated before November 1, 1993. Funds are not authorized to be appropriated to carry out this subsection until the funds are appropriated in advance to carry out this subsection.

[May 7, 1971, Public Law 92-12, §2, 85 Stat. 35; May 11, 1973, Public Law 93-32 §§ 8, 9, 87 Stat. 70, 71; Dec. 22, 1987, Public Law 100-203, Title I, Subtitle D, ch. 2 §§1411(b)(1), (c), 1412, 101 Stat. 1330-22, 1330-23, 1330-26; Nov. 28, 1990, Public Law 101-624, Title XXIII, Subtitle F, ch. 4, §§2365, 2366, 2367(b), 104 Stat. 4044; Nov. 1, 1993, Public Law 103-129, §2(a)(2), 107 Stat. 1361; October 13, 1994, Public Law 103-354, Title II, Subtitle C, §235(a)(13), 108 Stat. 3221; Dec. 21, 1995, Public Law 104-66, Title I, Subtitle A, §1011(y), 109 Stat. 711; 7 U.S.C. § 948.]

SEC. 409. TELEPHONE BANK RECEIPTS, AVAILABILITY FOR OBLIGATIONS AND EXPENDITURES.

Any receipts from the activities of the telephone bank shall be available for all obligations and expenditures of the telephone bank.

[May 7, 1971 Public Law 92-12, §2, 85 Stat. 36; 7 U.S.C. § 949.]

SEC. 410. CONVERSION OF OWNERSHIP, CONTROL AND OPERATION OF TELEPHONE BANK.

(a) TRANSFER OF POWERS AND AUTHORITY FROM SECRETARY OF AGRICULTURE TO TELEPHONE BANK BOARD; CESSATION OF PRESIDENTIAL APPOINTEES AS

BOARD MEMBERS AND REDUCTION IN NUMBER OF BOARD MEMBERS; STATUS OF TELEPHONE BANK.—Whenever fifty-one per centum of the maximum amount of class A stock issued to the United States and outstanding at any time after September 30, 1985, has been fully redeemed and retired pursuant to section 406(c) of this title—

(1) the powers and authority of the Governor of the telephone bank granted to the Secretary by this title IV shall vest in the Telephone Bank Board, and may be exercised and performed through the Governor of the telephone bank, to be selected by the Telephone Bank Board, and through such other employees as the Telephone Bank Board shall designate;

(2) the five members of the Telephone Bank Board designated by the President pursuant to section 405(b)(1)(A) shall cease to be members, and the number of Board members shall be accordingly reduced to eight unless other provision is thereafter made in the bylaws of the telephone bank;

(3) the telephone bank shall cease to be an agency of the United States, but shall continue in existence in perpetuity as an instrumentality of the United States and as a banking corporation with all of the powers and limitations conferred or imposed by this title IV except such as shall have lapsed pursuant to the provisions of this title.

(b) RESTRICTION OF SECTION 408 (a)(2) INAPPLICABLE TO LOANS UPON REDEMPTION AND RETIREMENT OF CLASS A STOCK. —When all class A stock has been fully redeemed and retired, loans made by the telephone bank shall not continue to be subject to the restrictions prescribed in the provisions to section 408(a)(2).

(c) CONGRESSIONAL REVIEW.—Congress reserves the right to review the continued operations of the telephone bank after all class A stock has been fully redeemed and retired.

[May 7, 1971, Public Law 92-12, §2, 85 Stat. 36; April 21, 1976, Public Law 94-273 §2(2), 90 Stat. 375; Nov. 28 1990, Public Law 101-624, Title XXIII, Subtitle F, ch. 4 §2363(b)(2), 104 Stat. 4043; Oct. 13, 1994, Public Law 103-354, Title II, Subtitle C, §235(a)(11), (13), 108 Stat. 3221; 7 U.S.C. § 950.]

SEC. 411. LIQUIDATION OR DISSOLUTION OF THE TELEPHONE BANK. In the case of liquidation or dissolution of the telephone bank, after the payment or retirement, as the case may be, first, of all liabilities; second, of all class A stock at par; third, of all class B stock at par; fourth, of all class C stock at par; then any surpluses and contingency reserves existing on the effective date of liquidation or dissolution of the telephone bank shall be paid to the holders of class A and class B stock issued and outstanding before the effective date of such liquidation or dissolution, pro rata.

[May 7, 1971, Public Law 92-12, §2, 85 Stat. 37; 7 U.S.C. § 950a.]

SEC. 412. BORROWER NET WORTH.—Except as provided in subsection (b)(2) of section 408, notwithstanding any other provision of law, a loan shall not be made under section 201 of this Act to any borrower which during the immediately preceding year had a net worth in excess of 20 per centum of its assets unless the Secretary finds that the borrower cannot obtain such a loan from the telephone bank or from other reliable sources at reasonable rates of interest and terms and conditions.

[May 7, 1971, Public Law 92-12, §2, 85 Stat. 37; Oct. 13, 1994, Public Law 103-354, Title II, Subtitle C, §235(a)(13), 108 Stat. 3221; 7 U.S.C. § 950b.]

TITLE V—RURAL ECONOMIC DEVELOPMENT

SEC. 501. ADDITIONAL POWERS AND DUTIES OF SECRETARY. —The Secretary shall—

(1) provide advice and guidance to electric borrowers under this Act concerning the effective and prudent use by such borrowers of the investment authority under section 312 to promote rural development;

(2) provide technical advice, troubleshooting, and guidance, concerning the operation of programs or systems that receive assistance under this Act;

(3) establish and administer various pilot projects through electric and telephone borrowers that the Secretary determines are useful or necessary, and recommend specific rural development projects for rural areas;

(4) act as an information clearinghouse and conduit to provide information to electric and telephone borrowers under this Act concerning useful and effective rural development efforts that such

borrowers may wish to apply in their areas of operation and concerning State, regional, or local plans for long-term rural economic development;

(5) provide information to electric and telephone borrowers under this Act concerning the eligibility of such borrowers to apply for financial assistance, loans, or grants from other Federal agencies and non-Federal sources to enable such borrowers to expand their rural development efforts; and

(6) promote local partnerships and other coordination between borrowers under this Act and community organizations, States, counties, or other entities, to improve rural development.

(7) [Repealed April 4, 1996] [This section related to administering a Rural Business Incubator Fund.]

[Nov. 28, 1990, Public Law 101-624, Title XXIII, Subtitle E, §2345, 104 Stat. 4029; Dec. 13, 1991, Public Law 102-237, Title VII, §703(c), 105 Stat. 1881; Oct. 13, 1994, Public Law 103-354, Title II, §235(a)(12), (13), 108 Stat. 3221; Apr. 4, 1996, Public Law 104-127, Title VII, §781(b), 110 Stat. 1151; 7 U.S.C. § 950aa.]

SEC. 502. [Repealed April 4, 1996].

[This section related to the establishment of a Rural Business Incubator Fund.]

[Nov. 28, 1990, Public Law 101-624, Title XXIII, Subtitle E, §2345, 104 Stat. 4030; Dec 13, 1991, Public Law 102-237; Title VII, §703, 105 Stat. 1881; Apr. 4, 1996, Public Law 104-127, Title VII, §781(a), 110 Stat. 1151; 7 U.S.C. § 950aa-1.]

TITLE VI — RURAL BROADBAND ACCESS

SEC. 601. ACCESS TO BROADBAND TELECOMMUNICATIONS SERVICES IN RURAL AREAS.

(a) PURPOSE.—The purpose of this section is to provide loans and loan guarantees to provide funds for the costs of the construction, improvement, and acquisition of facilities and equipment for broadband service in eligible rural communities.

(b) DEFINITIONS.—In this section:

(1) BROADBAND SERVICE.—The term "broadband service" means any technology identified by the Secretary as having the capacity to transmit data to enable a subscriber to the service to originate and receive high-quality voice, data, graphics, and video.

(2) INCUMBENT SERVICE PROVIDER.—The term ‘incumbent service provider”, with respect to an application submitted under this section, means an entity that, as of the date of submission of the application, is providing broadband service to not less than 5 percent of the households in the service territory proposed in the application.

(3) RURAL AREA.—

(A) IN GENERAL.—The term “rural area” means any areas other than—

(i) an area described in clause (i) or (ii) of section 343(a)(13)(A) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1991(a)(13)(A)); and

(ii) a city, town, or incorporated area that has a population of greater than 20,000 inhabitants.

(B) URBAN AREA GROWTH.—The Secretary may, by regulation only, consider an area described in section 343(a)(13)(F)(i)(I) of that Act to not be a rural area for purposes of this section.

(c) LOANS AND LOAN GUARANTEES.

(1) IN GENERAL.—The Secretary shall make or guarantee loans to eligible entities described in subsection (d) to provide funds for the construction, improvement, or acquisition of facilities and equipment for the provision of broadband service in eligible rural areas.

(2) PRIORITY.—In making loans or loan guarantees under paragraph (1), the Secretary shall—

(A) establish not less than 2 evaluation periods for each fiscal year to compare loan and loan guarantee applications and to prioritize loans and loan guarantees to all or part of rural communities that do not have residential broadband service that meets the minimum acceptable level of broadband service established under subsection (e);

(B) give the highest priority to applicants that offer to provide broadband service to the greatest proportion of unserved households or households that do not have residential broadband service that meets the minimum acceptable level of broadband service established under subsection (e), as—

(i) certified by the affected community, city, county, or designee; or

(ii) demonstrated on—

(I) the broadband map of the affected State if the map contains address-level data; or

(II) the National Broadband Map if address-level data is unavailable; and

(C) provide equal consideration to all qualified applicants, including applicants that have not previously received loans or loan guarantees under paragraph (1); and

(D) give priority to applicants that offer in the applications of the applicants to provide broadband service not predominantly for business service, if at least 25 percent of the customers in the proposed service territory are commercial interests.

(d) ELIGIBILITY.—

(1) ELIGIBLE ENTITIES.—

(A) IN GENERAL.—To be eligible to obtain a loan or loan guarantee under this section, an entity shall—

(i) demonstrate the ability to furnish, improve in order to meet the minimum acceptable level of broadband service established under subsection (e), or extend broadband service to all or part of an unserved rural area or an area below the minimum acceptable level of broadband service established under subsection (e);

(ii) submit to the Secretary a loan application at such time, in such manner, and containing such information as the Secretary may require; and

(iii) agree to complete buildout of the broadband service described in the loan application by not later than 3 years after the initial date on which proceeds from the loan made or guaranteed under this section are made available.

(B) LIMITATION.—An eligible entity that provides telecommunications or broadband service to at least 20 percent of the households in the United States may not receive an amount of funds under this section for a fiscal year in excess of 15 percent of the funds authorized and appropriated under subsection (k) for the fiscal year.

(2) ELIGIBLE PROJECTS.—

(A) IN GENERAL.—Except as provided in subparagraphs (B) and (C), the proceeds of a loan made or guaranteed under this section may be used to carry out a project in a proposed service territory only if, as of the date on which the application for the loan or loan guarantee is submitted—

(i) not less than 15 percent of the households in the proposed service territory are unserved or have service levels below the minimum acceptable level of broadband service established under subsection (e); and

(ii) broadband service is not provided in any part of the proposed service territory by 3 or more incumbent service providers.

(B) EXCEPTION TO PERCENT REQUIREMENT.—Subparagraph (A)(i) shall not apply to the proposed service territory of a project if a loan or loan guarantee has been made under this section to the applicant to provide broadband service in the proposed service territory.

(C) EXCEPTION TO INCUMBENT SERVICE PROVIDER REQUIREMENT.—

(i) IN GENERAL.—Except as provided in clause (ii), subparagraph (A)(ii) shall not apply to an incumbent service provider in the portion of a proposed service territory in which the provider is upgrading broadband service to meet the minimum acceptable level of broadband service established under subsection (e) for the existing territory of the incumbent service provider.

(ii) EXCEPTION.—Clause (i) shall not apply if the applicant is eligible for funding under another title of this Act.

(3) EQUITY AND MARKET SURVEY REQUIREMENTS.—

(A) IN GENERAL.—The Secretary may require an entity to provide a cost share in an amount not to exceed 10 percent of the amount of the loan or loan guarantee requested in the application of the entity, unless the Secretary determines that a higher percentage is required for financial feasibility.

(B) MARKET SURVEY.—

(i) IN GENERAL.—The Secretary may require an entity that proposes to have a subscriber projection of more than 20 percent of the broadband service market in a rural area to submit to the Secretary a market survey.

(ii) LESS THAN 20 PERCENT.—The Secretary may not require an entity that proposed to have a subscriber projection of less than 20 percent of the broadband service market in a rural area to submit to the Secretary a market survey.

(iii) INFORMATION.—Information submitted under this subparagraph shall be—

(I) certified by the affected community, city, county, or designee; or

(II) demonstrated on—

(aa) the broadband map of the affected State if the map contains address-level data; or

(bb) the National Broadband Map if address-level data is unavailable.

(4) STATE AND LOCAL GOVERNMENTS AND INDIAN TRIBES.—Subject to paragraph (1), a State or local government (including any agency, subdivision, or instrumentality thereof (including consortia thereof)) and an Indian tribe shall be eligible for a loan or loan guarantee under this section to provide broadband services to a rural area.

(5) NOTICE REQUIREMENTS.—The Secretary shall promptly provide a fully searchable database on the website of the Rural Utilities Service that contains, at a minimum—

(A) notice of each application for a loan or loan guarantee under this section describing the application, including—

(i) the identity of the applicant;

(ii) a description of each application, including—

(I) each area proposed to be served by the applicant; and

(II) the amount and type of support requested by each applicant;

(iii) the status of each application;

(iv) the estimated number and proportion relative to the service territory of households without terrestrial-based broadband service in those areas; and

(v) a list of the census block groups or proposed service territory, in a manner specified by the Secretary, that the applicant proposes to service;

(B) notice of each entity receiving assistance under this section, including—

(i) the name of the entity;

(ii) the type of assistance being received;

(iii) the purpose for which the entity is receiving the assistance;

(iv) each semiannual report submitted under paragraph (8)(A) (redacted to protect any proprietary information in the report); and

(C) such other information as is sufficient to allow the public to understand assistance provided under this section.

(6) PAPERWORK REDUCTION.—The Secretary shall take steps to reduce, to the maximum extent practicable, the cost and paperwork associated with applying for a loan or loan guarantee under this section by first-time applicants (particularly first-time applicants who are small and start-up broadband service providers), including by providing for a new application that maintains the ability of the Secretary to make an analysis of the risk associated with the loan involved.

(7) PREAPPLICATION PROCESS.—The Secretary shall establish a process under which a prospective applicant may seek a determination of area eligibility prior to preparing a loan application under this section.

(8) REPORTING.—

(A) IN GENERAL.—The Secretary shall require any entity receiving assistance under this section to submit a semiannual report for 3 years after completion of the project, in a format specified by the Secretary, that describes—

(i) the use by the entity of the assistance, including new equipment and capacity enhancements that support high-speed broadband access for educational institutions, health care providers, and public safety service providers (including the estimated number of end users who are currently using or forecasted to use the new or upgraded infrastructure); and

(ii) the progress towards fulfilling the objectives for which the assistance was granted, including—

(I) the number and location of residences and businesses that will receive new broadband service, existing network service improvements, and facility upgrades resulting from the Federal assistance;

(II) the speed of broadband service;

(III) the average price of broadband service in a proposed service area;

(IV) any changes in broadband service adoption rates, including new subscribers generated from demand-side projects; and

(V) any metrics the Secretary determines to be appropriate;

(B) ADDITIONAL REPORTING.—The Secretary may require any additional reporting and information by any recipient of any assistance under this section so as to ensure compliance with this section.

(9) DEFAULT AND DEOBLIGATION.—In addition to other authority under applicable law, the Secretary shall establish written procedures for all broadband programs administered by the Rural Utilities Service under this or any other Act that, to the maximum extent practicable—

(A) recover funds from loan defaults;

(B) deobligate any awards, less allowable costs that demonstrate an insufficient level of performance (including metrics determined by the Secretary) or fraudulent spending, to the extent funds with respect to the award are available in the account relating to the program established by this section;

(C) award those funds, on a competitive basis, to new or existing applicants consistent with this section; and

(D) minimize overlap among the programs.

(10) SERVICE AREA ASSESSMENT.—The Secretary shall, with respect to an application for assistance under this section—

(A) provide not less than 15 days for broadband service providers to voluntarily submit information concerning the broadband services that the providers offer in the census block groups or tracts described in paragraph (5)(A)(v) so that the Secretary may assess whether the applications submitted meet the eligibility requirements under this section; and

(B) if no broadband service provider submits information under subparagraph (A), consider the number of providers in the census block group or tract to be established by using—

(i) the most current National Broadband Map of the National Telecommunications and Information Administration; or

(ii) any other data regarding the availability of broadband service that the Secretary may collect or obtain through reasonable efforts.

(e) BROADBAND SERVICE.—

(1) IN GENERAL.—Subject to paragraph (2), for purposes of this section, the minimum acceptable level of broadband service for a rural area shall be at least—

(A) a 4-Mbps downstream transmission capacity; and

(B) a 1-Mbps upstream transmission capacity.

(2) ADJUSTMENTS.—

(A) IN GENERAL.—At least once every 2 years, the Secretary shall review, and may adjust through notice published in the Federal Register, the minimum acceptable level of broadband service established under paragraph (1) to ensure that high quality, cost-effective broadband service is provided to rural areas over time.

(B) CONSIDERATIONS.—In making an adjustment to the minimum acceptable level of broadband service under subparagraph (A), the Secretary may consider establishing different transmission rates for fixed broadband service and mobile broadband service.

(3) PROHIBITION.—The Secretary shall not establish requirements for bandwidth or speed that have the effect of precluding the use of evolving technologies appropriate for rural areas.

(f) TECHNOLOGICAL NEUTRALITY.—For purposes of determining whether to make a loan or loan guarantee for a project under this section, the Secretary shall use criteria that are technologically neutral.

(g) TERMS AND CONDITIONS FOR LOANS AND LOAN GUARANTEES.—

(1) IN GENERAL.—Notwithstanding any other provision of law, a loan or loan guarantee under this section shall—

(A) bear interest at an annual rate of, as determined by the Secretary—

(i) in the case of a direct loan, a rate equivalent to—

(I) the cost of borrowing to the Department of the Treasury for obligations of comparable maturity; or

(II) 4 percent; and

(ii) in the case of a guaranteed loan, the current applicable market rate for a loan of comparable maturity; and

(B) have a term of such length, not exceeding 35 years, as the borrower may request, if the Secretary determines that the loan is adequately secured.

(2) TERMS.—In determining the term and conditions of a loan or loan guarantee, the Secretary may—

(A) consider whether the recipient is or would be serving an area that is unserved or has service levels below the minimum acceptable level of broadband service established under subsection (e); and

(B) if the Secretary makes a determination in the affirmative under subparagraph (A), establish a limited initial deferral period or comparable terms necessary to achieve the financial feasibility and long-term sustainability of the project.

(3) RECURRING REVENUE.—The Secretary shall consider the existing recurring revenues of the entity at the time of application in determining an adequate level of credit support.

(h) ADEQUACY OF SECURITY.—

(1) IN GENERAL.—The Secretary shall ensure that the type and amount of, and method of security used to secure, any loan or loan guarantee under this section is commensurate to the risk involved with the loan or loan guarantee, particularly in any case in which the loan or loan guarantee is issued to a financially strong and stable entity, as determined by the Secretary.

(2) DETERMINATION OF AMOUNT AND METHOD OF SECURITY.—In determining the amount of, and method of security used to secure, a loan or loan guarantee under this section, the Secretary shall consider reducing the security in a rural area that does not have broadband service.

(i) USE OF LOAN PROCEEDS TO REFINANCE LOANS FOR DEPLOOYMENT OF BROADBAND SERVICE.—Notwithstanding any other provision of this Act, the proceeds of any loan made or guaranteed by the Secretary under this Act may be used by the recipient of the loan for the purpose of refinancing an outstanding obligation of the recipient on another telecommunications loan made under this Act if the use of the proceeds for that purpose will support the construction, improvement, or acquisition of facilities and equipment for the provision of broadband service in rural areas.

(j) REPORTS.—Not later than 1 year after the date of enactment of the Food, Conservation, and Energy Act of 2008, and annually thereafter, the Administrator shall submit to Congress a report that describes the extent of participation in the loan and loan guarantee program under this section for the preceding fiscal year, including a description of—

(1) the number of loans applied for and provided under this section, including any loan terms or conditions for which the Secretary provided additional assistance to unserved areas;

(2) (A) the communities proposed to be served in each loan application submitted for the fiscal year; and

(B) the communities serviced by projects funded by loans and loan guarantees provided under this section;

(3) the period of time required to approve each loan application under this section;

(4) any outreach activities carried out by the Secretary to encourage entities in rural areas without broadband service to submit applications under this section;

(5) the method by which the Secretary determines that a service enables a subscriber to originate and receive high-quality voice, data, graphics and video for purposes of subsection (b)(1);

(6) each broadband service, including the type and speed of broadband service, for which assistance was sought, and each broadband service for which assistance was provided, under this section; and

(7) the overall progress towards fulfilling the goal of improving the quality of rural life by expanding rural broadband access, as demonstrated by metrics, including—

(A) the number of residences and businesses receiving new broadband service;

(B) network improvements, including facility upgrades and equipment purchases;

(C) average broadband speeds and prices on a local and statewide basis;

(D) any changes in broadband adoption rates; and

(E) any specific activities that increased high speed broadband access for educational institutions, health care providers, and public safety service providers.

(k) FUNDING.—

(1) AUTHORIZATION OF APPROPRIATIONS.—There is authority to be appropriated to the Secretary to carry out this section $25,000,000 for each of fiscal years 2008 through 2018, to remain available until expended.

(2) ALLOCATION OF FUNDS.—

(A) IN GENERAL.—From amounts made available for each fiscal year under this subsection, the Secretary shall—

(i) establish a national reserve for loans and loan guarantees to eligible entities in States under this section; and

(ii) allocate amounts in the reserve to each State for each fiscal year for loans and loan guarantees to eligible entities in the State.

(B) AMOUNT.—The amount of an allocation made to a State for a fiscal year under subparagraph (A) shall bear the same ratio to the amount of allocations made for all States for the fiscal year as—

(i) the number of communities with a population of 2,500 inhabitants or less in the State; bears to

(ii) the number of communities with a population of 2,500 or less in all States.

(C) UNOBLIGATED AMOUNTS.—Any amounts in the reserve established for a State for a fiscal year under subparagraph (B) that are not obligated by April 1 of the fiscal year shall be available to the Secretary to make loans and loan guarantees under this section to eligible entities in any State, as determined by the Secretary.

(l) TERMINATION OF AUTHORITY.—No loan or loan guarantee may be made under this section after September 30, 2018.

[May 13, 2002, Public Law 107-171, Title VI, §6103(a), 116 Stat. 415, as amended January 23, 2004, Public Law 108-199, Title VII, §722, 118 Stat. 40; May 20, 2008, Public Law 100-234, Title VI, §6110(a), 122 Stat. 1199; June 18, 2008, Public Law 110-246, Title VI, § 6110, 122 Stat. 1199; Feb. 7, 2014, Public Law 113-79, Title VI, §6104, 128 Stat. 851; 7 U.S.C. § 950bb.]

SEC. 602. NATIONAL CENTER FOR RURAL TELECOMMUNICATIONS ASSESSMENT.

(a) DESIGNATION OF CENTER.—The Secretary shall designate an entity to serve as the National Center for Rural Telecommunications Assessment (referred to in this section as the “Center”).

(b) CRITERIA.—In designating the Center under subsection (a) the Secretary shall take into consideration the following criteria:

(1) The Center shall be an entity that demonstrates to the Secretary.—

(A) a focus on rural policy research; and

(B) a minimum of 5 years of experience relating to rural telecommunications research and assessment.

(2) The Center shall be capable of assessing broadband service in rural areas.

(3) The Center shall have significant experience involving other rural economic development centers and organizations with

respect to the assessment of rural policies and the formulation of policy solutions at the Federal, State, and local levels.

(c) BOARD OF DIRECTORS.—The Center shall be managed by a board of directors, which shall be responsible for the duties of the Center described in subsection (d).

(d) DUTIES.—The Center shall—

(1) assess the effectiveness of programs carried out under this title in increasing broadband penetration and purchase in rural areas, especially in rural communities identified by the Secretary as having no broadband service before the provision of a loan or loan guarantee under this title;

(2) work with existing rural development centers selected by the Center to identify policies and initiatives at the Federal, State, and local levels that have increased broadband penetration and purchase in rural areas and provide recommendations to Federal, State, and local policymakers on effective strategies to bring affordable broadband services to residents of rural areas, particularly residents located outside of the municipal boundaries of a rural city or town; and

(3) develop and publish reports describing the activities carried out by the Center under this section.

(e) REPORTING REQUIREMENTS.—Not later than December 1 of each applicable fiscal year, the board of directors of the Center shall submit to Congress and the Secretary a report describing the activities carried out by the Center during the preceding fiscal year and the results of any research conducted by the Center during that fiscal year, including—

(1) an assessment of each program carried out under this title; and

(2) an assessment of the effects of the policy initiatives identified under subsection (d)(2).

(f) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary to carry out this section $1,000,000 for each of fiscal years 2008 through 2012.

[June 18, 2008, Public Law 110-246, Title VI, § 6111, 122 Stat. 1965; 7 U.S.C. § 950bb-1.]

SEC. 603. RURAL GIGABIT NETWORK PILOT PROGRAM

(a) DEFINITION OF ULTRA-HIGH SPEED SERVICE.—In this section, the term “ultra-high speed service” means broadband service operating at a 1 gigabit per second downstream transmission capacity.

(b) PILOT PROGRAM.—The Secretary shall establish a pilot program to be known as the “Rural Gigabit Network Pilot Program”, under which the Secretary may, at the discretion of the Secretary, provide grants, loans, or loan guarantees to eligible entities.

(c) ELIGIBILITY.—

(1) IN GENERAL.—To be eligible to obtain assistance under this section, an entity shall—

(A) demonstrate to the Secretary the ability to furnish or extend ultra-high speed service to a rural area;

(B) submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require;

(C) not already provide ultra-high speed service to a rural area within any State in the proposed service territory; and

(D) agree to complete buildout of ultra-high speed service by not later than 3 years after the initial date on which assistance under this section is made available.

(2) ELIGIBLE PROJECTS.—Assistance under this section may only be used to carry out a project in a proposed service territory if—

(A) the proposed service territory is a rural area; and

(B) ultra-high speed service is not provided in any part of the proposed service territory.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $10,000,000 for each of fiscal years 2014 through 2018.

[Feb. 7, 2014, Public Law 113-79, Title VI, § 6105, 128 Stat. 856; 7 U.S.C. § 950bb-2.]

SELECTED LEGISLATION

- Definition of rural that is cross referenced in Section 15 of the RE Act
- Related legislation found in Title VII of the U.S. Code
- Distance Learning and Medical Link Programs
- Rural Energy Savings Program
- Authority to compromise debt and modify terms of security instruments
- Deferred amendments to the Government Corporation Control Act
- "Buy American" Provision
- Archival reference material

DEFINITION OF RURAL THAT IS CROSS REFERENCED IN SECTION 15 OF THE RE ACT

Section 343(a)(13)(C) of the Consolidated Farm and Rural Development Act provides:

* * *

> (C) COMMUNITY FACILITY LOANS AND GRANTS.—For the purpose of community facility direct and guaranteed loans and grants under paragraphs (1), (19), (20), (21) , and (24) of section 306(a), the terms "rural and "rural area" mean any area other than a city, town, or unincorporated area that has a population of greater than 20,000 inhabitants.

* * *

[7 U.S.C. § 1991(a)(13)(C)]

LEGISLATION CODIFIED IN THE SAME CHAPTER OF THE U.S. CODE AS THE RE ACT

[The following legislation is codified as part of Title 7, Chapter 31 of the United States Code and relates to the Rural Development electric and telecommunication loan programs, but these provisions were not enacted as amendments to the REAct, per se.]

§ 906a. Use of funds outside the United States or its territories prohibited

No funds provided under this chapter shall be used outside the United States or any of its territories.

[May 11, 1973, Public Law 93-32, § 10, 87 Stat. 71.]

§ 912a. Rescheduling and refinancing of loans

In addition to the loan extension authority provided in section 12 of the Rural Electrification Act [7 U.S.C.A. 912], the Secretary of Agriculture is authorized to adjust and readjust the schedules for payment of principal and interest on loans to borrowers under programs administered by the Secretary under the Rural Electrification Act of 1936 (7 U.S.C. 901 *et seq*.), and to extend the maturity date of any such loan to a date not beyond forty years from the date of such loan where he determines such action is necessary because of the impairment of the economic feasibility of the system, or the loss, destruction, or damage of the property of such borrowers as a result of a major disaster.

[Dec. 31, 1970, Public Law 91-606, Title II, § 236(a), 84 Stat. 1754;
Oct. 13, 1994, Public Law 103-354, Title II, § 235(b)(1),
108 Stat. 3221.]

§ 915. Purchase of Financial and Credit Reports

The Secretary of Agriculture is authorized to purchase such financial and credit reports as may be necessary to carry out its authorized work: Provided, That purchases under this authority shall not be made unless provision is made therefor in the applicable appropriation and the cost thereof is not in excess of limitations prescribed therein.

[Sept. 21, 1944, Public Law 78-425, ch. 412, Title V, §505, 58 Stat. 740; Oct. 13, 1994, Public Law 103-354, Title II, Subtitle C, §235(b)(2), 108 Stat. 3221; 7 U.S.C. § 915.]

§ 918b. Financing; acquisition of existing generation, transmission and distribution systems and facilities

Hereafter, notwithstanding any other provision of law, the Administrator of the Rural Utilities Service shall use the authorities provided in the Rural Electrification Act of 1936 to finance the acquisition of existing generation, transmission and distribution systems and facilities serving high cost, predominantly rural areas by entities capable of and dedicated to providing or improving service n such areas in an efficient and cost effective manner.

[November 28, 2001, Public Law 107-76, Title VII, §748,
115 Stat. 738; 7 U.S.C. § 918b.]

§ 918c. Rural and remote community electrification grants[13]

(a) Definitions
In this section:

(1) The term "eligible grantee" means a local government or municipality, peoples' utility district, irrigation district, and cooperative, nonprofit, or limited-dividend association in a rural area.

(2) The term "incremental hydropower" means additional generation achieved from increased efficiency after January 1, 2005, at a hydroelectric dam that was placed in service before January 1, 2005.

(3) The term "renewable energy" means electricity generated from—

(A) a renewable energy source; or

(B) hydrogen, other than hydrogen produced from a fossil fuel, that is produced from a renewable energy source.

(4) The term "renewable energy source" means—

(A) wind;

(B) ocean waves;

(C) biomass;

(D) solar;

(E) landfill gas;

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[13] This U.S. code section is from the Public Utilities Regulatory Policy Act of 1978 (Pub. L. 95-617) as amended by the Energy Policy Act of 2005 (Aug. 8, 2005, Public Law 109-58, Title II, §209, 119 Stat. 657).

(F) incremental hydropower;
(G) livestock methane; or
(H) geothermal energy.

(5) The term “rural area” means a city, town, or unincorporated area that has a population of not more than 10,000 inhabitants.

(b) Grants
The Secretary[14], in consultation with the Secretary of Agriculture and the Secretary of the Interior, may provide grants under this section to eligible grantees for the purpose of—

(1) increasing energy efficiency, siting or upgrading transmission and distribution lines serving rural areas; or

(2) providing or modernizing electric generation facilities that serve rural areas.

(c) Grant administration

(1) The Secretary shall make grants under this section based on a determination of cost-effectiveness and the most effective uses of the funds to achieve the purposes described in subsection (b).

(2) For each fiscal year, the Secretary shall allocate grant funds under this section equally between the purposes described in paragraphs (1) and (2) of subsection (b).

(3) In making grants for the purposes described in subsection (b)(2), the Secretary shall give preference to renewable energy facilities.

(d) Authorization of appropriations
There is authorized to be appropriated to the Secretary to carry out this section $20,000,000 for each of fiscal years 2006 through 2012.

[August 8, 2005, Public Law 109-58, Title II, §209, 119 Stat. 657; 7 U.S.C. § 918c.]

§ 921. Congressional declaration of policy

It is declared to be the policy of the Congress that adequate telephone service be made generally available in rural areas through the improvement and expansion of existing telephone facilities and the construction and operation of such additional facilities as are required

[14] The Secretary of Energy.

to assure the availability of adequate telephone service to the widest practicable number of rural users of such service.

[Oct. 28, 1949, Public Law 81-423, ch. 776, § 1, 63 Stat. 948.]

§ 921a. Policy of financing of rural telephone program

It is hereby declared to be the policy of the Congress that the growing capital needs of the rural telephone systems require the establishment of a rural telephone bank which will furnish assured and viable sources of supplementary financing with the objective that said bank will become an entirely privately owned, operated, and financed corporation. The Congress further finds that many rural telephone systems require financing under the terms and conditions provided in this subchapter.

[May 7, 1971, Public Law 92-12, § 1, 85 Stat. 29.]

§ 921b. Policy of expansion of markets for debentures

It is hereby declared to be the policy of the Congress that the Rural Telephone Bank should have the capability of obtaining adequate funds for its supplementary financing program at the lowest possible costs. In order to effectuate this policy, it will be necessary to expand the market for debentures to be issued by the Telephone Bank.

[June 30, 1972, Public Law 92-324, § 1, 86 Stat. 390.]

§ 930. Congressional declaration of policy

It is hereby declared to be the policy of the Congress that adequate funds should be made available to rural electric and telephone systems through direct, insured and guaranteed loans at interest rates which will allow them to achieve the objectives of this chapter, and that such rural electric and telephone systems should be encouraged and assisted to develop their resources and ability to achieve the financial strength needed to enable them to satisfy their credit needs from their own financial organizations and other sources at reasonable rates and terms consistent with the loan applicant's ability to pay and achievement of this chapter's objectives.

[May 11, 1973, Public Law 93-32, § 1, 87 Stat. 65.]

§ 931a. Level of loan programs under Rural Electrification and Telephone Revolving Fund

On and after October 28, 1991, no funds in this Act or any other Act shall be available to carry out loan programs under the Rural Electrification and Telephone Revolving Fund at levels other than those provided for in advance in appropriations Acts.

[Oct. 28, 1991, Public Law 102-142, Title III, § 903, 105 Stat. 903.]

§ 944a. Publication of rural telephone bank policies and regulations

Notwithstanding the exemption contained in section 553(a)(2) of Title 5, the Governor of the telephone bank shall cause to be published in the Federal Register, in accordance with section 553 of Title 5, all rules, regulations, bulletins, and other written policy standards governing the operation of the telephone bank's programs relating to public property, loans, grants, benefits, or contracts. After September 30, 1988, the telephone bank may not deny a loan or advance to, or take any other adverse action against, any applicant or borrower for any reason which is based upon a rule, regulation, bulletin, or other written policy standard which has not been published pursuant to such section.

[Dec. 22, 1987, Public Law 100-203, Title I, Subtitle D, ch. 2, § 1414, 101 Stat. 1330-27.]

DISTANCE LEARNING AND MEDICAL LINK PROGRAMS

UNITED STATES CODE ANNOTATED
TITLE 7. AGRICULTURE
CHAPTER 31A–TELEMEDICINE AND DISTANCE LEARNING SERVICES IN RURAL AREAS

(Current through Public Law 113-79, signed into law February 7, 2014)

Note: Public Law 102-551, §1(b), October 28, 1992, 106 Stat. 4100, as amended, provides that this chapter [31A] will be effective until September 30, 2018.

SEC. 2331 Purpose

The purpose of this chapter is to encourage and improve telemedicine services and distance learning services in rural areas through the use of telecommunications, computer networks, and related advanced technologies by students, teachers, medical professionals, and rural residents.

[April 4, 1996, Public Law 104-127, Title VII, §704, 110 Stat. 1108; 7 U.S.C. § 950aaa.]

SEC. 2332 Definitions

In this chapter:

(1) Construct

The term "construct" means to construct, acquire, install, improve, or extend a facility or system.

(2) Cost of money loan

The term "cost of money loan" means a loan made under this chapter bearing interest at a rate equal to the then current cost to the Federal Government of loans of similar maturity.

(3) Secretary

The term "Secretary" means the Secretary of Agriculture.

[April 4, 1996, Public Law 104-127, Title VII, §704, 110 Stat. 1108; 7 U.S.C. § 950aaa-1]

SEC. 2333 Telemedicine and distance learning services in rural areas

(a) Services to rural areas

The Secretary may provide financial assistance for the purpose of financing the construction of facilities and systems to provide telemedicine services and distance learning services in rural areas.

(b) Financial assistance

(1) In general

Financial assistance shall consist of grants or cost of money loans, or both.

(2) Form

The Secretary shall determine the portion of the financial assistance provided to a recipient that consists of grants and the portion that consists of cost of money loans so as to result in the maximum feasible repayment to the Federal Government of the financial assistance, based on the ability to repay of the recipient and full utilization of funds made available to carry out this chapter.

(c) Recipients

(1) In general

The Secretary may provide financial assistance under this chapter to–

(A) entities using telemedicine services or distance learning services; and

(B) entities providing or proposing to provide telemedicine service or distance learning service to other persons at rates calculated to ensure that the benefit of the financial assistance is passed through to the other persons; and.

(C) libraries

(2) Electric or telecommunications borrowers

(A) Loans to borrowers

Subject to subparagraph (B), the Secretary may provide a cost of money loan under this chapter to a borrower of an electric or telecommunications loan under the Rural

Electrification Act of 1936 (7 U.S.C. 901 *et seq*.). A borrower receiving a cost of money loan under this paragraph shall—

(i) make the funds provided available to entities that qualify under paragraph (1) for projects satisfying the requirements of this chapter;

(ii) use the funds provided to acquire, install, improve, or extend a system referred to in subsection (a) of this section; or

(iii) use the funds provided to install, improve, or extend a facility referred to in subsection (a) of this section.

(B) Limitations

A borrower of an electric or telecommunications loan under the Rural Electrification Act of 1936 [7 U.S.C.A. § 901 *et seq*.] shall—

(i) make a system or facility funded under subparagraph (A) available to entities that qualify under paragraph (1); and

(ii) neither retain from the proceeds of a loan provided under subparagraph (A), nor assess a qualifying entity under paragraph (1), any amount except as may be required to pay the actual costs incurred in administering the loan or making the system or facility available.

(3) Appeal

If the Secretary rejects the application of a borrower who applies for a cost of money loan or grant under this section, the borrower may appeal the decision to the Secretary not later than 10 days after the borrower is notified of the rejection.

(4) Assistance to provide or improve services

Financial assistance may be provided under this chapter for a facility regardless of the location of the facility if the Secretary determines that the assistance is necessary to provide or improve telemedicine services or distance learning services in a rural area.

(d) Priority

The Secretary shall establish procedures to prioritize financial assistance under this chapter considering—

(1) the need for the assistance in the affected rural area;

(2) the financial need of the applicant;

(3) the population sparsity of the affected rural area;

(4) the local involvement in the project serving the affected rural area;

(5) geographic diversity among the recipients of financial assistance;

(6) the utilization of the telecommunications facilities of any telecommunications provider serving the affected rural area;

(7) the portion of total project financing provided by the applicant from the funds of the applicant;

(8) the portion of project financing provided by the applicant with funds obtained from non-Federal sources;

(9) the joint utilization of facilities financed by other financial assistance;

(10) the coordination of the proposed project with regional projects or networks;

(11) service to the greatest practical number of persons within the general geographic area covered by the financial assistance;

(12) conformity with the State strategic plan as prepared under section 2009c of this title; and

(13) other factors determined appropriate by the Secretary.

(e) Maximum amount of assistance to individual recipients

The Secretary may establish the maximum amount of financial assistance to be made available to an individual recipient for each fiscal year under this chapter, by publishing notice of the maximum amount in the Federal Register not more than 45 days after funds are made available for the fiscal year to carry out this chapter.

(f) Use of funds

Financial assistance provided under this chapter shall be used for—

(1) the development and acquisition of instructional programming;

(2) the development and acquisition, through lease or purchase, of computer hardware and software, audio and visual equipment, computer network components, telecommunications terminal equipment, telecommunications transmission facilities, data terminal equipment, or interactive video equipment, or other facilities that would further telemedicine services or distance learning services;

(3) providing technical assistance and instruction for the development or use of the programming, equipment, or facilities referred to in paragraphs (1) and (2); or

(4) other uses that are consistent with this chapter, as determined by the Secretary.

(g) Salaries and expenses

Notwithstanding subsection (f) of this section, financial assistance provided under this chapter shall not be used for paying salaries or administrative expenses.

(h) Expediting coordinated telephone loans

(1) In general

The Secretary may establish and carry out procedures to ensure that expedited consideration and determination is given to applications for loans and advances of funds submitted by local exchange carriers under this chapter and the Rural Electrification Act of 1936 (7 U.S.C. 901 *et seq*.) to enable the exchange carriers to provide advanced telecommunications services in rural areas in conjunction with any other projects carried out under this chapter.

(2) Deadline imposed on Secretary

Not later than 45 days after the receipt of a completed application for an expedited telephone loan under paragraph (1), the Secretary shall notify the applicant in writing of the decision of the Secretary regarding the application.

(i) Notification of local exchange carrier

(1) Applicants

Each applicant for a grant for a telemedicine or distance learning project established under this chapter shall notify the appropriate local telephone exchange carrier regarding the application filed with the Secretary for the grant.

(2) Secretary

The Secretary shall—

(A) publish notice of applications received for grants under this chapter for telemedicine or distance learning projects; and

(B) make the applications available for inspection.

[April 4, 1996, Public Law 104-127, Title VII, §704, 110 Stat. 1109; May 22, 2008, Public Law 110-234, Title VI, §6201(a), 122 Stat. 1205; June 18, 2008, Public Law 110-246, §4(a), Title VI, §6201(a), 122 Stat. 1664, 1967; 7 U.S.C. § 950aaa-2.]

SEC. 2334 Administration

(a) Nonduplication

The Secretary shall ensure that facilities constructed using financial assistance provided under this chapter do not duplicate adequate established telemedicine services or distance learning services.

(b) Loan maturity

The maturities of cost of money loans shall be determined by the Secretary, based on the useful life of the facility being financed, except that the loan shall not be for a period of more than 10 years.

(c) Loan security and feasibility

The Secretary shall make a cost of money loan only if the Secretary determines that the security for the loan is reasonably adequate and that the loan will be repaid within the period of the loan.

(d) Encouraging consortia

The Secretary shall encourage the development of consortia to provide telemedicine services or distance learning services through telecommunications in rural areas served by a telecommunications provider.

(e) Coordination with other agencies

The Secretary shall coordinate, to the extent practicable, with other Federal and State agencies with similar grant or loan programs to pool resources for funding meritorious proposals in rural areas.

(f) Informational efforts

The Secretary shall establish and implement procedures to carry out informational efforts to advise potential end users located in rural areas of each State about the program authorized by this chapter.

[April 4, 1996, Public Law 104-127, Title VII, §704, 110 Stat. 1111; 7 U.S.C. § 950aaa-3.]

SEC. 2335 Regulations

Not later than 180 days after April 4, 1996, the Secretary shall issue regulations to carry out this chapter.

[April 4, 1996, Public Law 104-127, Title VII, §704, 110 Stat. 1112; 7 U.S.C. § 950aaa-4.]

SEC. 2335A Authorization of appropriations

There are authorized to be appropriated to carry out this chapter $75,000,000 for each of fiscal years 2014 through 2018.

[April 4, 1996, Public Law 104-127, Title VII, §704, 110 Stat. 1112; amended May 13, 2002, Public Law 107-171, Title VI, §6203(a), 116 Stat. 421; June 18, 2008, Public Law 110-246, Title VI, §6201(b), 122 Stat. 1967; February 7, 2014, Public Law 113-79, Title VI, §6201(a), 128 Stat. 856; 7 U.S.C. § 950aaa-5.]

RURAL ENERGY SAVINGS PROGRAM

[The 2014 Farm Bill added this section to Subtitle E of title VI of the 2002 Farm Bill]

SEC. 6407 of the 2002 Farm Bill as codified at 7 U.S.C. § 8107a:

(a) PURPOSE.—The purpose of this section is to help rural families and small businesses achieve cost savings by providing loans to qualified consumers to implement durable cost-effective energy efficiency measures.

(b) DEFINITIONS.—In this section:

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

(A) any public power district, public utility district, or similar entity, or any electric cooperative described in section 501(c)(12) or 1381(a)(2) of the Internal Revenue Code of 1986, that borrowed and repaid, prepaid, or is paying an electric loan made or guaranteed by the Rural Utilities Service (or any predecessor agency);

(B) any entity primarily owned or controlled by 1 or more entities described in subparagraph (A); or

(C) any other entity that is an eligible borrower of the Rural Utilities Service, as determined under section 1710.101 of title 7, Code of Federal Regulations (or a successor regulation).

(2) ENERGY EFFICIENCY MEASURES.—The term “energy efficiency measures” means, for or at property served by an eligible entity, structural improvements and investments in cost-effective, commercial technologies to increase energy efficiency.

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

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

(c) LOANS TO ELIGIBLE ENTITIES.—

(1) IN GENERAL.—Subject to paragraph (2), the Secretary shall make loans to eligible entities that agree to use the loan funds to make loans to qualified consumers for the purpose of implementing energy efficiency measures.

(2) REQUIREMENTS.—

(A) IN GENERAL.—As a condition of receiving a loan under this subsection, an eligible entity shall—

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

(ii) prepare an implementation plan for use of the loan funds, including use of any interest to be received pursuant to subsection (d)(1)(A);

(iii) provide for appropriate measurement and verification to ensure—

(I) the effectiveness of the energy efficiency loans made by the eligible entity; and

(II) that there is no conflict of interest in carrying out this section; and

(iv) demonstrate expertise in effective use of energy efficiency measures at an appropriate scale.

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

(C) EXISTING ENERGY EFFICIENCY PROGRAMS— An eligible entity that, at any time before the date that is 60 days after the date of enactment of this section, has established an energy efficiency program for qualified consumers may use an existing list of energy efficiency measures, implementation plan, or measurement and verification system of that program to satisfy the requirements of subparagraph (A) if the Secretary determines the list, plan, or systems are consistent with the purposes of this section.

(3) NO INTEREST.—A loan under this subsection shall bear no interest.

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

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

(B) except as provided in paragraph (6), the repayment of each advance shall be amortized for a period not to exceed 10 years.

(5) AMOUNT OF ADVANCES.—Any advance of loan funds to an eligible entity in any single year shall not exceed 50 percent of the approved loan amount.

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

(A) IN GENERAL.—In order to assist an eligible entity in defraying the appropriate start-up costs (as determined by the Secretary) of establishing new programs or modifying existing programs to carry out subsection (d), the Secretary shall allow an eligible entity to request a special advance.

(B) AMOUNT.—No eligible entity may receive a special advance under this paragraph for an amount that is greater than 4 percent of the loan amount received by the eligible entity under paragraph (1).

(C) REPAYMENT.—Repayment of the special advance—

(i) shall be required during the 10-year period beginning on the date on which the special advance is made; and

(ii) at the election of the eligible entity, may be deferred to the end of the 10-year period.

(7) LIMITATION.—All special advances shall be made under a loan described in paragraph (1) during the first 10 years of the term of the loan.

(d) LOANS TO QUALIFIED CONSUMERS.—

(1) TERMS OF LOANS.—Loans made by an eligible entity to qualified consumers using loan funds provided by the Secretary under subsection (c)—

(A) may bear interest, not to exceed 3 percent, to be used for purposes that include—

(i) to establish a loan loss reserve; and

(ii) to offset personnel and program costs of eligible entities to provide the loans;

(B) shall finance energy efficiency measures for the purpose of decreasing energy usage or costs of the qualified consumer by an amount that ensures, to the maximum extent practicable, that a loan term of not more than 10 years will not pose an undue financial burden on the qualified consumer, as determined by the eligible entity;

(C) shall not be used to fund purchases of, or modifications to, personal property unless the personal property is or becomes attached to real property (including a manufactured home) as a fixture;

(D) shall be repaid through charges added to the electric bill for the property for, or at which, energy efficiency measures are or will be implemented, on the condition that this requirement does not prohibit—

(i) the voluntary prepayment of a loan by the owner of the property; or

(ii) the use of any additional repayment mechanisms that are—

(I) demonstrated to have appropriate risk mitigation features, as determined by the eligible entity; or

(II) required if the qualified consumer is no longer a customer of the eligible entity; and

(E) shall require an energy audit by an eligible entity to determine the impact of proposed energy efficiency measures on the energy costs and consumption of the qualified consumer.

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

(e) CONTRACT FOR MEASUREMENT AND VERFICATION, TRAINING, AND TECHNICAL ASSISTANCE.—

(1) IN GENERAL.—Not later than 90 days after the date of enactment of this section, the Secretary—

(A) shall establish a plan for measurement and verification, training, and technical assistance of the program; and

(B) may enter into 1 or more contracts with a qualified entity for the purpose of—

(i) providing measurement and verification activities; and

(ii) developing a program to provide technical assistance and training to the employees of eligible entities to carry out this section.

(2) USE OF SUBCONTRACTOR AUTHORIZED.—A qualified entity that enters into a contract under paragraph (1) may use subcontractors to assist the qualified entity in carrying out the contract.

(f) ADDITIONAL AUTHORITY.—The authority provided in this section is in addition to any other authority of the Secretary to offer loans under any other law.

(g) EFFECTIVE PERIOD.—Subject to the availability of funds and except as otherwise provided in this section, the loans and other expenditures required to be made under this section shall be available until expended, with the Secretary authorized to make new loans as loans are repaid.

(h) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $75,000,000 for each of fiscal years 2014 through 2018.

[Feb. 7, 2014, Public Law 113-79, Title VI, § 6205, 128 Stat. 857; 7 U.S.C. § 8107a.]

AUTHORITY TO COMPROMISE DEBT

§ 1981(b). Powers of the Secretary of Agriculture

The Secretary may—
. . .
(4) compromise, adjust, reduce, or charge-off debts or claims (including debts and claims arising from loan guarantees), and adjust, modify, subordinate, or release the terms of security instruments, leases, contracts, and agreements entered into or administered by the Consolidated Farm Service Agency, Rural Utilities Service, Rural Housing Service, Rural Business-Cooperative Service, or a successor agency, or the Rural Development Administration, except for activities under the Housing Act of 1949 [42 U.S.C. 1441 *et seq*.]. In the case of a security instrument entered into under the Rural Electrification Act of 1936 (7 U.S.C. 901 *et seq*.), the Secretary shall notify the Attorney General of the intent of the Secretary to exercise the authority of the Secretary under this paragraph. The Secretary may not require liquidation of property securing any farmer program loan or acceleration of any payment required under any farmer program loan as prerequisite to initiating an action authorized under this subsection. After consultation with a local or area county committee, the Secretary may release borrowers or others obligated on a debt, except for debt incurred under the Housing Act of 1949, from personal liability with or without payment of any consideration at the time of the compromise, adjustment, reduction, or charge-off of any claim, except that no compromise, adjustment, reduction, or charge-off of any claim may be made or carried out after the claim has been referred to the Attorney General, unless the Attorney General approves;

[. . .April 4, 1996, Public Law 104-127, Title VI, Subtitle D, §§ 631, 632, Title VII, Subtitle B, Ch 1, § 748, 101 Stat. 1092, 1128; May 13, 2002, Public Law 107-171, Title V, §§ 5303, 5304(a), 116 Stat. 345.]

DEFERRED AMENDMENTS TO THE GOVERNMENT CORPORATION CONTROL ACT

Sections 4 and 5 of the Act of May 7, 1971 (Public Law 92-12; 85 Stat. 37) establishing the Rural Telephone Bank, included the following deferred amendments to the Government Corporation Control Act:

SEC. 4. Section 201 of the Government Corporation Control Act, as amended (31 U.S.C. 856)[15], is amended, effective when the ownership, control, and operation of the telephone bank is converted as provided in section 410(a) of the Rural Electrification Act of 1936, as amended, by striking "and" immediately before "(5)" and by inserting, "and (6) the Rural Telephone Bank" immediately before the period at the end.

SEC. 5. The second sentence of subsection (d) of section 303 of the Government Corporation Control Act, as amended (31 U.S.C. 868)[16], is amended, effective when the ownership, control, and operation of the telephone bank is converted as provided in section 410(a) of the Rural Electrification Act of 1936, as amended, by inserting "the Rural Telephone Bank," immediately following the words "shall not be applicable to."

[15] may be found as recodified at 31 U.S.C. 9101(2)(H).
[16] may be found as recodified at 31 U.S.C. 9108(d)(2).

"BUY AMERICAN" PROVISION

Rural Electrification Act of 1938 (June 21, 1938, ch. 554, Title IV §401, 52 Stat. 818) provided in part as follows:

In making loans pursuant to this title and pursuant to the Rural Electrification Act of 1936, the Secretary of Agriculture shall require that, to the extent practicable and the cost of which is not unreasonable, the borrower agree to use in connection with the expenditure of such funds only such unmanufactured articles, materials, and supplies, as have been mined or produced in the United States or in any eligible country, and only such manufactured articles materials, and supplies as have been manufactured in the United States or in any eligible country substantially all from articles, materials, or supplies mined, produced, or manufactured, as the case may be, in the United States or in any eligible country. For purposes of this section, an 'eligible country', is any country that applies with respect to the United States an agreement ensuring reciprocal access for United States products and services and United States suppliers to the markets of that country, as determined by the United States Trade Representative.

(As amended by the North American Free Trade Agreement Implementation Act December 8, 1993, Public Law 103-182, Title III, Subtitle G. §381(d), 107 Stat. 2129, and further amended October 13, 1994, Public Law 103-354, Title II, Subtitle C, §235(b)(3), 108 Stat. 3221; December 8, 1994, Public Law 103-465, Title III, Subtitle E, §342(g), 108 Stat. 4954; 7 U.S.C. § 903 note.)

A list of eligible countries may be found at the USDA Rural Development website maintained for the Electric and Telecommunication Programs.

ARCHIVAL REFERENCES

- Insured Loan Programs
- Direct or Insured Loan Prepayment
- Miscellaneous – Section 313 of the RE Act

INSURED LOAN PROGRAMS

Prior to the enactment on November 1, 1993, of the Rural Electrification Loan Restructuring Act of 1993, Sections 305 and 314 of the Rural Electrification Act read as follows:

SEC. 305. INSURED LOANS. —(a) The Administrator is authorized to make insured loans under this title and at the interest rates hereinafter provided to the full extent of the assets available in the fund, subject only to limitations as to amounts authorized for loans and advances as may be from time to time imposed by the Congress of the United States for loans to be made in any one year, which amounts shall remain available until expended: Provided, That the Congress in the annual appropriation Act may also authorize the transfer of any excess cash in the fund for deposit into the Treasury as miscellaneous receipts: And provided further, That any such loans and advances shall not be included in the totals of the budget of the United States Government and shall be exempt from any general limitation imposed by statute on expenditures and net lending (budget outlays) of the United States.

(b) Insured loans made under this title shall bear interest at 5 per centum per annum, except that the Administrator may make insured loans to electric or telephone borrowers at a lesser interest rate, but not less than 2 per centum per annum, if, in the Administrator's sole discretion, the Administrator finds that the borrower

(1) has experienced extreme financial hardship, or

(2) cannot, in accordance with generally accepted management and accounting principles and without charging rates to its customers or subscribers so high as to create a substantial disparity between such rates and the rates charged for similar service in the same

or nearby areas by other suppliers, provide service consistent with the objectives of this Act.

(c) Loans made under this section shall be insured by the Administrator when purchased by a lender. As used in this Act, an insured loan is one which is made held, and serviced by the Administrator, and sold and insured by the Administrator hereunder; such loans shall be sold and insured by the Administrator without undue delay.

(d) The Administrator shall make a telephone loan under this title to an applicant therefor who is otherwise qualified to receive such a loan at the highest interest rate (but not less than the lowest interest rate, nor higher than the highest interest rate, specified in subsection (b)) at which the borrower would be capable of producing net income or margins before interest payments of at least 100 percent (but not more than 150 percent) of the interest requirements on all of the applicant's outstanding and proposed loans.

May 11, 1973, Public Law 93-32, §2, 87 Stat. 68; Oct. 20, 1976, Public Law 94-570 §3, 90 Stat. 2701; Aug. 13, 1981, Public Law 97-35, Title I, §165(a), 95 Stat. 379; Nov. 28, 1990, Public Law 101-624, Title XXIII, Subtitle F. ch. 3, §2361, 104 Stat. 4042; 7 U.S.C. § 935.]

SEC. 314. AUTHORIZATION LEVELS FOR RURAL ELECTRIC AND TELEPHONE LOANS.

(a) IN GENERAL.—Subject to the other provisions of this section and notwithstanding any other provision of law, for each of fiscal years 1991 through 1995, insured loans may be made in accordance with this title from the Rural Electrification and Telephone Revolving Fund established under section 301 in amounts equal to the following levels:

(1) For fiscal year 1991,$896,000,000.
(2) For fiscal year 1992, $932,000,000.
(3) For fiscal year 1993, $969,000,000.
(4) For fiscal year 1994, $1,008,000,000.
(5) For fiscal year 1995, $1,048,000,000.

(b) REDUCTION.-Notwithstanding any other provision of law, for each of fiscal years 1991 through 1995, the Administrator shall

(1) reduce the amounts otherwise made available for insured loans made from the Rural Electrification and Telephone Revolving Fund by

(A) $224,000,000 for fiscal year 1991;
(B) $234,000,000 for fiscal year 1992;
(C) $244,000,000 for fiscal year 1993;

(D) $256,000,000 for fiscal year 1994; and

(E) $267,000,000 for fiscal year 1995, and

(2) use the funds made available from such reductions in each fiscal year to guarantee loans under subsection (d).

(c) MANDATORY LEVELS.—Notwithstanding any other provision of law, the Administrator shall make insured loans at the levels authorized by this section for each of fiscal years 1991 through 1995 taking into account any reductions under subsection (b).

(d) GUARANTEED LOANS

(1) IN GENERAL.—Except as otherwise provided in this subsection and subsection (e) and notwithstanding any other provision of law, in carrying out this Act, the Administrator shall guarantee loans made by legally organized lending agencies to the extent of the reduction in insured loans as provided in subsection (b).

(2) AMOUNT OF GUARANTEE.—The guarantee authorized under paragraph (1) shall be 90 percent of the principal of and interest on the loan and shall be made only upon the request of the borrower;

(3) NO FEDERAL INSTRUMENTALITY.—The Administrator may not provide any such guarantee for a loan made by the Federal Financing Bank the Rural Telephone Bank, or any other lending agency that is an agency or instrumentality of the United States other than banks for cooperatives.

(4) AUTHORITY.—The Administrator is authorized to approve such guarantees subject to full use being made during each fiscal year of insured loan amounts made available during the fiscal year.

(5) CONSTRUCTION.—Nothing in this subsection shall be construed as modifying the authority provided in section 306.

(e) IMPLEMENTATION.

(1) IN GENERAL.—The Administrator shall implement the reduction in insured loans provided by subsection (b) in a manner that will lessen its adverse effect.

(2) ALLOCATION BETWEEN ELECTRIC AND TELEPHONE PROGRAMS.—The reductions required by subsection (b) shall be allocated between the electric and telephone programs for each fiscal year in proportion to the amount of insured funds made available for each such program during the fiscal year in annual appropriations Acts.

(3) ELECTRIC BORROWER'S OPTION.—If the amount of an insured electric loan is reduced as a result of the requirements of

subsection (b), the electric borrower may, at the option of such borrower, obtain capital to replace the amount of the reduction

(A) with the assistance of a loan guarantee (as provided by subsection (d));

(B) from internally generated funds of the electric borrower;

(C) from private credit sources with a lien accommodation provided by the Administrator; or

(D) from other private sources.

[Nov. 5, 1990, Public Law 101-508, Subtitle B. §1201, 104 Stat. 1388-7; 7 U.S.C. § 940d.]

DIRECT OR INSURED LOAN PREPAYMENT

Prior to the enactment on August 10, 1993, of the Omnibus Budget Reconciliation Act of 1993 (OBRA 1993), Section 306B of the Rural Electrification Act read as follows:

SEC. 306B. SALE OR PREPAYMENT OF DIRECT OR INSURED LOANS.— (a) A direct or insured loan made under this Act shall not be sold or prepaid at a value less than the face value of any outstanding principal balance on such loan, except when sold to or prepaid by the borrower at the lesser of the outstanding principal balance due on the loan or the loan's present value discounted from the face value at maturity at the rate set by the Administrator. The exception contained in the preceding sentence shall be effective for the period ending September 30, 1987.

(b) Notwithstanding subsection (a), a direct or insured loan may be prepaid by an electric borrower at the lesser of the outstanding principal balance due thereon or the present value thereof discounted from the face value at maturity at the rate set by the Administrator if the borrower is an electrical organization which resulted from a merger or consolidation between a borrower and an organization which prior to October 1, 1987, prepaid its direct or insured loans pursuant to this section. Prepayments by a borrower hereunder shall be made not later than one year after the effective date of the merger, consolidation, or other transaction. The discount rate to be set by the Administrator for direct or insured loans prepayments hereunder shall be based on the current cost of funds to the Department of the Treasury for obligations of comparable maturity to those being prepaid. If a borrower prepays using tax exempt financing, the discount shall be adjusted to make the discount equivalent to fully taxable financing. The borrower shall certify in writing whether the financing will be tax exempt and shall comply with such other terms and conditions as the Administrator may establish which are reasonable and necessary to implement this provision. As used in this section, the term "direct loan" means a loan made under section 4.

[Oct. 21, 1986 Public Law 99-509, Title I, §1011(a) 100 Stat. 1875; Nov. 28, 1990, Public Law 101-624, Title XXIII, Subtitle H, §2387, 104 Stat. 4051; 7 U.S.C. § 936b.]

Note: Sections 306C, 306D, 306E were enacted subsequent to OBRA 1993.

MISCELLANEOUS – SECTION 313 OF THE RURAL ELECTRIFICATION ACT

The following enacted provision is not permanent in nature:

SEC. 313. CUSHION OF CREDIT PAYMENTS PROGRAM

Section 708 of the Consolidated and Further Continuing Appropriations Act, 2015, provided: “any former RUS borrower that has repaid or prepaid an insured, direct or guaranteed loan under the Rural Electrification Act, or any not-for-profit utility that is eligible to receive an insured or direct loan under such Act, shall be eligible for assistance under Section 313(b)(2)(B) of such Act in the same manner as a borrower under such Act.” (Pub. L. 113-235, 128 Stat. 2162)