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House of Representatives

The House was not in session today. Its next meeting will be held on Tuesday, April 8, 2008, at 12:30 p.m.

Senate

MONDAY, APRIL 7, 2008

The Senate met at 2 p.m. and was called to order by the Honorable JIM WEBB, a Senator from the Commonwealth of Virginia.

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

O God, our sovereign King, You have given us the gift of another day. Thank You for the opportunity to serve You by serving others.

As our lawmakers labor for liberty, empower them to promote the welfare of this land. Give them the wisdom to look to You for support and blessings. Lord, may they not trust in human efforts alone but humbly acknowledge that You, Almighty God, preside over the destiny of nations. As they look back, help them to see Your hands working in our history and thereby find strength to face the future with optimism and thanksgiving. Let Your goodness and mercy sustain them throughout life's seasons. Remind them that You never ask them to do more than You will provide the strength for them to accomplish.

We pray in the Redeemer's Name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable JIM WEBB led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. BYRD).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, April 7, 2008.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable JIM WEBB, a Senator from the Commonwealth of Virginia, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. WEBB thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

Mr. REID. Mr. President, following my remarks and those of Senator MCCONNELL, if he chooses to make some remarks, there will be a period for the transaction of morning business until 3 o'clock today. Senators during that period of time will be allowed to speak for up to 10 minutes each.

At 3 o'clock the Senate will resume consideration of H.R. 3221, which is the vehicle we have used to move the housing legislation. As previously announced, there will be no votes today.

HOUSING VOTES

Mr. REID. Mr. President, thanks to Senators DODD, BAUCUS, SHELBY and GRASSLEY and their staffs, we have had some good bipartisan work on this housing bill. This bill will help communities, homeowners, and the homebuilding industry. This bill is not a silver bullet, but it is an important first step, so I hope we can pass it quickly and overwhelmingly so we can send it along to the House of Representatives.

We have nine pending amendments. I have asked my staff to see what they can do to work with the Republicans to see if we can come up with votes tomorrow morning on those amendments that are germane. The Parliamentarian has had a chance to look at those. A number of them are clearly germane, and I hope we can vote on them tomorrow morning.

IRAQ

Mr. REID. Mr. President, this is an important week not only because we are going to finish the housing bill this week but also because General Petraeus and Ambassador Crocker will testify. There are a number of questions they must be asked by Members of the Senate. The first one is will our troops come home soon or when will our troops come home. And I think they should be asked if the Iraq war has made America safer.

When the surge began more than a year ago, President Bush labeled the strategy ''return on success.'' As the surge succeeds, according to the President, our troops would come home. We

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

are already hearing General Petraeus has recommended to freeze the troop levels. In fact, there will be more troops after the freeze takes place than before the surge started. I assume President Bush will accept this request by General Petraeus. By the President's own measure, without our troops returning, there will be no success.

General Petraeus and Ambassador Crocker will be asked a number of other questions. We have seen what happened a week or 10 days ago in Basra: al-Sadr was attacked by the Iraqi armed services. Al-Maliki, the leader of Iraq, didn't notify the American troops or anyone else and simply took off after al-Sadr. That attack was basically a failure. The police didn't police. The Iraqi police didn't police. At least 1,000 Iraqi soldiers laid down their arms and quit. In fact, they didn't lay down their arms, they gave them over to al-Sadr's forces. Because of that, British artillery was asked to engage, and they did. U.S. troops were asked to come in, and they did. U.S. air support was asked to come in, and they did. We lost a number of soldiers and a significant number of soldiers were wounded.

As some of my colleagues will recall, when this attack by al-Maliki's forces took place, President Bush said: This is what it is all about. This shows the success of what I have been telling everyone.

Our troops in Iraq face a civil war that is growing more violent by the day—by the day. Any notion of renewed commitment to peace among Iraqi factions is betrayed by the news every day. Yesterday, five American soldiers were killed. In one attack, 2 were killed and 31 were wounded.

General Petraeus has to be asked the question: Why is this happening? The battle, as we see in the papers today, is intensifying between al-Sadr and al-Maliki. We have heard today's news that the Sunnis are becoming more violent. The Green Zone, which is supposed to be a safe haven, the safest part of Iraq, has seen a series of attacks over the last couple weeks. People have been killed in the Green Zone. Our soldiers are now being killed in the Green Zone.

The chorus for a smarter strategy in Iraq is growing among defense and military experts. COL John Gentile, a West Point history professor who has served two tours of duty in Iraq, has said directly about Petraeus's action in Iraq, as reported in headline news today in the Wall Street Journal, among other things:

> We've come up with this false narrative, this incorrect explanation of what is going on in Iraq. We've come to see counterinsurgency as the solution to every problem and we're losing the ability to wage any other kind of war.

General Petraeus must respond to the criticism of Lieutenant Colonel Gentile.

General Petraeus is responsible solely for the conditions in Iraq. He has responsibilities nowhere else. But others, including Secretary Gates, Admiral Mullen and Congress and the President must consider Iraq in the context of America's interests throughout the world. So General Petraeus must be asked: Has the war made us safer?

Based on every measure, the answer is a resounding no. Because of Iraq, our military's readiness for full-spectrum combat is stretched dangerously thin and becoming more so every day. Our troops are serving their second, third, fourth, fifth—and some are believed to be headed to Iraq for the sixth time. This is taking a tremendous toll on them and their families and the overall status of our military.

We are not ready for an unexpected crisis that could arise overnight someplace other than Iraq. Each additional tour results in substantially higher rates of post-traumatic stress disorder. On one tour, 12 percent of the soldiers are coming back with post-traumatic stress disorder; three of four tours, approaching 30 percent.

I, in my office last Friday, was leaving, and a young man and his wife were there with a baby. The young man married this very pretty lady, his wife, the mother of his child, when he was 15. She was 19. He joined the Army and went to Iraq. I said: How are you doing? He said: Not very well. These were his words: My cognitive abilities are gone. He is having trouble thinking. That is what post-traumatic stress disorder is all about.

The military is in such dire need of recruits. I can remember when I practiced law I did some criminal defense work. One of the things we would try with some of these young men who were in trouble was to see if we could get them in the military. The answer was no; they had criminal records. It is not the case anymore. If you haven't graduated from high school, the military will still take you. If you have committed a felony or a serious crime, the military will still take you. In fact, one out of every eight of our new recruits—that is 13 percent—have received a waiver for past criminal misconduct. Some of these are felons, these people who are going into the military after having committed a crime. But even with these people who have no high school diploma, those who have been involved in serious crimes, we are still struggling in meeting our recruitment goals.

As has been reported in all the print press and the electronic media today, we are losing our combat-hardened leaders, those with experience—sergeants, captains. There was a good report on the radio this morning about what are we going to do for colonels and generals 15 years from now, if all the captains are leaving.

We recognize General Petraeus's responsibility is Iraq, but in these hearings, these meetings with General Petraeus, he is going to have to understand we have taken our eye off the ball in other crucial areas of the world, including Afghanistan, Pakistan, North Korea, Iran, all through the Middle East. America's No. 1 enemy, bin Laden, remains free. Al-Qaida is going strong. Because of Iraq, courageous men and women of our National Guard don't have the manpower and equipment to do their job and protect us here at home. Because of Iraq, our moral authority is lost in the eyes of many. Our foreign allies are unwilling to stand by our side. General Petraeus is going to have to respond to some of these questions: When will our troops come home? Has the Iraq war made our country safer? These are the questions that matter. The American people deserve a fair assessment of both.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will proceed to a period for the transaction of morning business until 3 p.m., with Senators permitted to speak therein for up to 10 minutes each.

The Senator from Missouri is recognized.

HOUSING PROBLEMS

Mr. BOND. Mr. President, I thank the majority leader for his kind words about the housing bill that is before us. This is the measure on which we are working on a bipartisan basis to deal with what is one of the most serious economic problems we face today in America and across the world. There has been so much subprime mortgage paper put out from adjustable rate mortgages and teaser mortgages in the United States that it has gone into financial systems in many countries, and they are facing similar problems to the ones our financial system faces here.

I believe there are a lot of steps that are important that we take at the macro levels, things the Federal Reserve does and what the Treasury can do and what the government-regulated, government-sponsored entities can do. But it is also my firm belief that this problem is one that we are going to have to save community by community, neighborhood by neighborhood, and family by family. That is why I have an amendment filed today, Bond amendment No. 3436, to avoid these problems in the future.

I have listened to a lot of homeowners, and one of the real problems we have is right now there is not a clear and simple disclosure of payments and interest rates for adjustable rate loans with the so-called teaser rates. The teaser loans with interest rates and payments that jump up to unaffordable levels played a large part

in the current subprime mortgage crisis. Many potential borrowers either did not understand what they were getting into or were falsely assured that everything would be OK. That is a part of bringing relief to families and neighborhoods suffering through the current housing finance crisis. I want to ensure we do not face another crisis in the future because we did not correct the problem.

For those of us who have taken out a mortgage loan to buy or refinance a home, we know what a pile of paperwork we face and all the legal jargon. I am a recovering attorney. I have had the experience of having that stack of papers—enough to choke a horse—put down in front of me, and the real estate agent, whoever is there, just says: Sign this, sign this, sign this, sign this, sign this. About 40 minutes later, you are dizzy from signing, and nothing in those papers clearly tells you what you are getting into. That is why we passed the original Truth in Lending Act and applied it to home mortgage loans. We knew then that most people did not take the time to read and understand the fine print in mortgage loan documents.

Regrettably, the consumer protections in the original Truth in Lending Act were written long ago and are outdated—woefully outdated. They were written when most bought a home with a 30-year fixed rate mortgage. Now—and this is a good thing—there are many more loan tools to help people share in the dream of home ownership. There are adjustable rate mortgages, adjustable rate mortgages with initial fixed terms, sometimes called teasers, prepayment penalties, refinance options, quicker and easier than ever before. But while more choices can be a good thing, uneducated consumers or consumers who do not have assistance in understanding that information may not understand that what they are doing is falling into a trap.

I want to see the disclosures laid out simply so that nobody is caught in a trap the way one of my constituents, Willie Clay of Kansas City, MO, and his family were caught. I shared Willie's story on the floor a month ago when we first introduced the SAFE Act, Security Against Foreclosure and Education Act, a relief bill, which forms the basis of the Dodd-Shelby bill before us.

Willie lives in a working-class Kansas City neighborhood of modest ranch homes called Ruskin Heights. He was a Vietnam war paratrooper, living largely on disability payments. He refinanced a mortgage in 2004 for a total of $101,000. As we can see, Willie is a man of modest means. He was not a speculator gambling on the housing market; he was not an investor buying a vacation home; he just wanted to live in a decent home. He was looking for extra money to pay off his medical bills, car loans, and some credit cards, and he agreed to a subprime adjustable rate loan with an initial fixed rate of 8.2 percent. For several years, everything went fine. He made the payments, honored his agreement. Then, last October, the initial fixed rate ended and the loan reset to a variable rate. Given the condition of the market at the time, his new interest rate became 11.2 percent and then was set to rise again in March to 12.2 percent, with more rises coming.

Willie told the Kansas City Star:

If the rates go up again, I can't afford it.

Willie and his wife Ina would have to give up their home and move into an apartment. Willie now admits that he never fully understood how an adjustable rate worked when he agreed to the new loan. I will tell you, Mr. Clay, don't feel alone. There are a lot of people who do not understand the terms of their mortgage, and it is far too confusing under the system we have now.

He said:

I don't have the education to understand it. And they didn't explain it to me. I thought if the interest [rate] went down, your payment went down. If the interest rate went up, your payment stayed the same.

Willie was now facing a mortgage payment 50 percent higher than when he started. He was trapped in his loan because there was a $2,500 prepayment penalty, which prevented him from getting out. This is not just Willie Clay's family crisis. The entire neighborhood is suffering through this housing crisis. There are more than 500 foreclosures in his ZIP Code alone. On Willie's block, there are already several empty houses.

Foreclosed homes are dragging property values down for everyone. It is becoming a self-perpetuating downward spiral. That is why I felt so strongly about how we need to help these suffering families and neighborhoods. That is why we introduced the original Security Against Foreclosure and Education Act.

The ''e,'' for education, focused on language meant to prevent this problem in the future, and that is the subject of the amendment that will be before us when we return to the bill.

My amendment, representing the disclosure requirements from the SAFE Act that were not transferred to the Dodd-Shelby substitute, updates the Truth in Lending Act to modern times.

The Bond amendment will apply to adjustable rate mortgages with an original fixed or teaser rate. This is the kind of loan Willie Clay had and millions of Americans across the country hold. For these types of adjustable rate loans with teasers, lenders or brokers will be required to provide in large, prominent type the loan's fixed interest rate, the initial fixed payment, and the date on which the fixed rate will expire. The lender or broker will also need to provide an estimate of what the payment will be when the loan resets from its initial teaser rate to a floating adjustable rate. For many subprime borrowers lured with a low teaser rate, this jump can be quite large, and borrowers should be aware of it. If they are not aware of it, then they should not be permitted to do the loan.

What we are saying is, put the critical dollars-and-cents items in large type on the first one or two pages. Don't bury this in a whole bunch of legal mumbo-jumbo that we lawyers—my colleagues who are still lawyers—love to write to make sure we cover every possible contingency.

The Bond amendment also requires lenders to disclose that there is no guarantee the loan can be refinanced before the initial fixed rate expires. Too many of the people in this trap now have said and told me and others that they were told there was no problem to refinance. Yes, there is a problem, and a lot of borrowers were caught when they found out they could not refinance. They did not know how high their rates could go after the teaser rate expired. Any concern they had that they could not afford their loan in the future was put to rest by the broker with a reassurance that there was no problem refinancing the loan before the teaser rate expired. For many, this turned out to be true, but when the credit market seized up and loan standards were raised, the rest were caught in this squeeze.

The amendment I will ask this body to adopt requires a disclosure that there is no guarantee the borrower will be able to refinance the loan when the teaser rate expires.

The Bond amendment also requires disclosure of any prepayment penalty, the amount, and its expiration date. Prepayment penalties is what caught Willie Clay and his family. While prepayment penalties can be good, giving certainty to the lender, who can in turn provide a lower interest rate, people need to be aware of what they are getting into and how it will be costly to get out.

That is the theme of this entire amendment. It does not block adjustable rate mortgages. It does not block initial fixed rates. It allows prepayment penalties, an opportunity to refinance quickly.

The advantages in the mortgage business have been good for consumers, allowing a new generation of home buyers to share the American dream. It just requires plain disclosure of loan terms so that people will know what they are getting into.

Some may ask why we need to be prescriptive in telling brokers what to say and regulators what to require. That is because in this situation, current protections and oversight have failed. Brokers and lenders did not do enough to disclose to and educate consumers. Regulators also failed here, and they continue to fail. Neither HUD nor the Fed required disclosure of these terms in the past, neither sought to increase disclosures when the subprime crisis started, and neither's most recent proposal takes this on.

The American consumer cannot wait while the bureaucracy, slow to move

before, further delays and equivocates on what must be done now. What must be done is simple, straightforward disclosure of the most basic loan terms—rate, payment, new rate, new payment, penalties, and guarantees.

These are basic consumer protections which I expect will help prevent a future home loan crisis and trapping of a large number of American families who are caught in this situation now. I urge my colleagues to adopt them and to support the Bond amendment when it is brought up.

Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from North Dakota.

HOUSING CRISIS

Mr. DORGAN. Mr. President, I know the subject is housing. We will have a fair amount of discussion about the legislation on the floor of the Senate today, tomorrow, and later this week when we begin voting on it. I wish to start by talking about what got us into this mess because it seems to me, if what we are doing at the moment is trying to evaluate what we do with the difficulties that exist and the difficulties that confront us and do not deal with the underlying cause, we will have missed something very important.

The other day, I came to the floor and talked about what was happening in the mortgage industry. What was happening, of course, was an unbelievable amount of greed, unbelievable speculation, and the result is this occurrence of subprime loans proliferated across the country, and then it collapsed. We have investment banks that are about to go broke. We have the Federal Reserve Board coming in with a safety net, saying: We will have the taxpayers bail out the investment banks. All of this going on while the Federal Reserve Board, which did its best imitation of a potted plant on these issues, began reducing interest rates and then antes up $30 billion so the American taxpayers could inherit the risk so JPMorgan could buy Bear Stearns. All of this has occurred in recent months.

What started it? A lot of things started it. Let me give some examples.

This is from an advertisement on radio and television. It is from Zoom Credit. I don't know Zoom Credit company. But here is what they said when they advertised their services to unsuspecting buyers. They said:

> Credit approval is just seconds away. Get on the fast track at Zoom Credit. At the speed of light, Zoom Credit will preapprove you. Even if your credit's in the tanks. Zoom Credit's like money in the bank. Zoom Credit specializes in credit repair and debt consolidation. Bankruptcy, slow credit, no credit—who cares?

That is what they were advertising: Let us give you a loan. You have been bankrupt, you can't make your payments, come to Zoom Credit. Does it sound like a business model that makes sense to anybody? Not to me.

Millennia Mortgage. I don't know this company. Here is what they were advertising:

> Twelve months, no mortgage payment. That's right. We will give you the money to make your first 12 payments if you call in the next 7 days. We pay it for you. Our loan program may reduce your current monthly payment by as much as 50 percent and allow you no payments for the first 12 months.

They say: Come and get your home loan from us. You won't have to make a payment for 12 months. We will make it for you. What it doesn't say is it goes on the back of the loan and increases the price of that house.

Countrywide was the biggest mortgage company in America, and now it has been acquired by Bank of America. Here is what Countrywide said:

> Do you have less than perfect credit? Do you have late mortgage payments? Have you been denied by other lenders? Call us. . . .

Are you a bad credit risk? Call us, we are going to lend you some money. That is unbelievable to me.

So you ask, how did we get into this mess? Let me continue.

Lowest fixed rate loan in America, they are advertising on this one. One-quarter of 1 percent; that is a twenty-five-hundredths of 1 percent interest rate. A $200,000 home loan, a monthly payment of $41.66. You want to borrow half a million dollars; pay $146.16 a month?

Is that a business plan from a mortgage company? It doesn't look to me like it is. This, by the way, came off the Internet today. The reason I am mentioning it is, nothing has changed. They are still doing it.

This says First Premier Mortgage. One hundred percent loans you get, conforming loans. We will offer conforming loans. Perfect credit, by the way, isn't required. So on the Internet you can go to First Premier Mortgage. Perfect credit isn't required. If you have less than perfect credit, we have loans that will allow you to qualify for a competitive interest rate. You can consolidate everything.

So don't worry, perfect credit is not required to borrow from this company.

This is Florida Mortgage Corporation. This is Monday, April 7, 2008. That is today. Go to the Internet today. Here is what they tell you. Each month you will receive a loan statement. We have a 30-year fixed mortgage that is available to you—30-year fixed mortgage. By the way, no income verification.

What does that mean? It says: Come to us, borrow some money, we will give you a 30-year fixed mortgage. You can pay up to 2.75 percent interest rate and, by the way, no income verification. We will not have to verify your income to give you a big old fat home mortgage. Isn't that unbelievable? Not credit score driven.

This is on the Internet today. Nothing is changing. This one is on the Internet today as well: OptionArmConsultants.com. They make this sound like this is a terrific loan. You can lower your mortgage payment by 50 percent or more per month. You can control up to two or three times as much real estate as other fixed mortgages. It is saying: Hey, come over here, get a mortgage from us, that way you can speculate, own more real estate.

None of these have indicated to the borrower what the terms really are. These are all seductive approaches that say: Come and get a mortgage from us. You don't need good credit. You can have bad credit. You can be bankrupt. Come and borrow money from us.

What they do not say is they are going to throw all those extra charges on the back of the mortgage. They do not tell them when it resets later they will not be able to pay the mortgage payment.

So that is what has happened. I have heard the largest reset of mortgages is going to occur in the fourth quarter of this year. But what has happened is, millions of families took out these mortgages. Were they wrong? Yes, they were wrong. But was the advertising for this deceptive? I believe it was. So millions of families took out a mortgage without understanding the consequences.

They said: Come and get a mortgage from us. Twenty-five-hundredths of 1 percent interest rate, we will pay the payments for the first 12 months—not describing to them, of course, what the reset is going to be on interest rates 3 years from now or 2 years from now.

So what happens? Well, what happens is they stick these mortgages in what they call subprimes. And, by the way, one-half of the folks who were put into a subprime would have qualified for a regular mortgage. Why did they get put into subprime? Because it was much more profitable for the big investment banks and mortgage banks. So they stack all these subprime loans together with other loans, sort of like they used to make sausage. It is like packing sawdust and sausage, like they used to in the old days. They would put sawdust in sausage, slice it and dice it and ship it out. So they sell these loans to hedge funds and investment banks and everybody is fat and happy like hogs in a corn crib. Everybody is making lots of money, especially the big shots, until all of a sudden they understand that in these little pieces of sausage they bought, they didn't understand what was there. There were subprime mortgages there that could never, ever be repaid, and the whole thing started collapsing.

It collapsed to the point of Bear Stearns losing tens of billions of dollars of value in 2 weeks. But not to worry. This is a no-fault economy, at least no-fault capitalism for the folks at the top. So the Fed comes in and says: JPMorgan, you buy Bear Stearns, and we will put up $30 million at risk for the American taxpayer.

I want to ask this question of the Federal Reserve Board and the Treasury Secretary. If these companies are

too big to fail—and that was the proposition with respect to the bailout of Bear Stearns—if investment banks are too big to fail, then why are they too small to be regulated? If we are going to designate companies as being too big to fail, is there not some responsibility, some obligation on behalf of the American taxpayer to have effective regulation?

I know regulation is a four-letter word for some, but the fact is, somebody should have been looking over the shoulder of these mortgage companies. Somebody should have been looking over the shoulder of the investment banks and, yes, the hedge funds, all unregulated largely, and as a result, the tent comes collapsing down.

And guess what. The American taxpayer is told: You pay the cost. You bear the burden. Even while they are told that, it still goes on today. Go to the Internet and see the deceptive advertising on the Internet for the same kind of loans.

So we have a housing bill on the floor of the Senate. What I wanted to do is to describe how we got here. If we don't do something about that, if we just sit around here like potted plants and say, well, it is OK, it is OK for us to decide that there are institutions that are too big to fail, including investment banks, so we can let them go broke. They are too big to fail because the consequences for the American economy would be catastrophic. If these institutions are too big to fail, then we have a reasonable expectation that there be effective regulation. And I am going to offer at least one amendment that deals with that subject, and that amendment will deal with the Federal Trade Commission.

The fact is, the Federal Trade Commission does not have the ability at this point, in any meaningful way, to go after this kind of deceptive advertising on mortgages. Those who took these mortgages, in some cases, if they took them in order to flip the property and speculate, it is their fault. But I would say in many, and most cases, these are folks who didn't know what the terms were. These were cold calls via a telephone call into the home to say: What is your mortgage payment? We have a better deal for you—without disclosing all of the terms. Those homeowners are victims, and many are now losing their homes.

My amendment will give the authority to the Federal Trade Commission to do a rulemaking under the Administrative Practices Act so they can develop rules about deceptive advertising and take effective and immediate action against those who are engaged in this practice. That is just something that must be done.

If we just come to the floor of the Senate and pass what is called a housing bill and ignore the other pieces of this puzzle, we will have made a mistake. We need to give the Federal Trade Commission the ability and the opportunity to go after the companies that were engaged in deceptive practices—predatory lending. We have to do that.

Now, Mr. President, I want to mention, as well, that my understanding is another amendment has been filed and is pending on the floor of the Senate to this bill dealing with the extension of renewable energy credits, including the production tax credit and the solar investment tax credit. I just wanted to say this: The amendment that is pending apparently, is a 1-year extension of the production tax credit to incentivize wind and other renewable energy resources.

Let me tell you what we did with oil and gas. In 1916, this country put in place robust, aggressive, permanent long-term tax incentives for people to go look for oil and gas. Well, look what it did. We have produced a lot of oil and gas. Guess what we have done for renewables—wind, solar, and others? In 1992, we had a tax credit for wind—the production tax credit. We had a solar investment tax credit for commercial purposes going back to 1985 but the residential credit was enacted in 2005. These have been short-term incentives though, not a particularly aggressive credits and short term.

Since 1992, for a country that is desperate to be less dependent on foreign sources of energy, we have extended it short term five times. We have let the production tax credit expire three times, and every time it expires, investment simply dries up. This is certainly the case for wind energy. This is stutter, start, stop. It doesn't make any sense at all.

Look, I will vote for anything that extends the production tax credit and renewable energy tax credits for a year or 2 years. I will vote for it, but the 1-year amendment look, but that is not what we should be doing.

I have introduced a bill that, as a country, will say to the renewable energy industry: Here is where we are headed; count on it, invest on it. For the next 10 years, here is what we intend to incentivize.

Why do we just stutter, step around with a baby step in one direction, saying start, stop, start, stop, go this way, with a 1-year extension of the production tax credit? Well, that will help for 1 year, but that is not what we ought to be doing. Further, it will do nothing for solar, by the way. We are way behind on solar energy because the solar projects take longer to develop—3 to 5 years. If you have this on-off switch that you turn off every year or two, all you have done is dampen and injure the opportunity to make renewable energy a significant part of this country's energy life.

So my hope is those who have announced the extension, and I want to work with them, but I am just saying I think what we have done since 1992 is a pathetic, anemic response for a country that keeps saying it believes in renewable energy because we never do enough to manifest that in public policy. If we are going to have an amendment, let's boost that amendment, and let's decide to make this a real incentive. We did it permanently nearly a century ago for oil and gas, and now in the last three decades for renewable, we have turned it on five times short term and off three times. What kind of a signal is that? It is not a signal at all.

Mr. President, on one other subject, I want to say a word about something I discussed last week. And I want to show you the photograph of a 22-year-old young man. His name is Efraim Diveroli. He is the president of a firm that was awarded $300 million in taxpayer contracts to provide ammunition to the Afghan army and police in Afghanistan.

Three hundred million dollars was given to that company. It turns out the company is run by a 22-year-old man named Efraim Diveroli. And, by the way, his vice president was a massage therapist named David Packouz, a former masseur. Between the two of them, they got $300 million in taxpayer contracts.

I will tell you who gave it to them. The Army Sustainment Command did. I want the general who was in charge of the Army Sustainment Command when this contract was awarded to come to the Congress and explain how you give $300 million in contracts to what had been a shell company, now run by a 22-year-old and a 25-year-old massage therapist.

This is a photo of the building in Florida that supposedly housed this company that received $300 million—$300 million.

The office is just an office inside this building, no markings on the door. The 22-year-old president says he is the only employee, but they got $300 million.

Here is a sample of what showed up for that $300 million. They sent ammunition to the Afghan fighters, and it turns out in some cases to have been mid-1960s ammunition made in China. Almost worthless. But we paid them $300 million.

Now, I mention this again, as I have so often, because three times I have offered on the floor of the Senate an amendment, and I will again, that would establish a Truman committee to investigate waste, fraud, and abuse in this kind of contracting. We have shoveled more money out the door. We have sent pallets of one-hundred-dollar bills on C–130s—billions in cash—to Iraq. We have such unbelievable waste and fraud and abuse, I think the greatest in American history, and yet there is nothing that represents the kind of oversight that Americans should expect of us. Three times I have offered the establishment of a Truman committee. Let me describe what the Truman committee was. Senator Truman from Missouri on the floor of the Senate proposed a bipartisan special committee to investigate waste, fraud, and abuse in the Pentagon, and it passed.

They did 60 hearings a year for 7 years. They were started with $15,000 appropriations, and they saved $15 billion for the American taxpayer. If ever we need that kind of a committee, it is now.

Three times I have offered that on the floor of the Senate—three times. Every vote on the Democratic side of the aisle has been to say, yes, we need it. Every vote save one on the Republican side of the aisle objected and opposed and we have not been able to get this done.

I used this example because it was on the front page of the New York Times just last week, about a company that gets $300 million that appears now to have been largely wasted—American taxpayers' dollars once again just poured down a rat hole. I use this example to say we ought to be embarrassed to not have the kind of oversight we should.

I am proud to say everyone on this side of the aisle has voted three times to establish a special bipartisan committee called the Truman committee. We know this works. We have done it before.

I have held up on the floor so many examples. A little white towel that Halliburton was ordering for the troops because they have the LOGCAP contract to supply these things, a little white towel their buyer, Henry Bunting, was ordered to buy for the troops. So he orders the white towel and the supervisor says: You can't do that. You need to order a white towel with KBR, the subsidiary, Kellogg Brown & Root, embroidered on the towel.

Henry says: Well, that will triple or quadruple the cost.

The supervisor says: That doesn't matter. This is a cost-plus contract. The taxpayer will pay for that.

That is a small example, and there are so many large examples. Whistleblowers have told us $85,000 brandnew trucks were left beside the road in perfectly safe areas, to be torched because they didn't have a wrench to fix the tire. The attitude was, it doesn't matter; the American taxpayer bought those trucks, and they will buy the replacement trucks on a cost-plus contract. It is unbelievable.

A woman named Bunnatine Greenhouse came to testify before the policy committee which I chair. I have held almost all the hearings which have been held on these issues. The policy committee doesn't have the subpoena power, but you would be surprised how many whistleblowers want to talk about what is happening.

Bunnatine Greenhouse became the highest ranking civilian official in the Corps of Engineers, judged to be outstanding by all accords. She said the awarding of these contracts in the Pentagon for reconstruction—the LOGCAP contract, RIO contract, all of these contracts—is the most blatant contracting abuse she has seen in her career. For that, this courageous woman was demoted. She paid for it with her job, but she would not be silenced. Now her career is behind a curtain over in the Pentagon. No one will comment.

The American people should not stand for this. We should not stand for it. I intend again to offer the amendment that would establish a bipartisan committee to aggressively investigate waste, fraud, and abuse in contracting in Iraq; waste, fraud, and abuse in all of the other adjunct areas because I believe the American taxpayer is getting fleeced, and I believe American soldiers are being disserved by what is happening.

I can speak for hours about this subject because I have had somewhere around 15 or 17 hearings on this subject. I have had whistleblowers come to tell me they were at a camp that was serving food to 5,000 soldiers a day under the contract, but they were billing for 10,000 soldiers.

I have seen the reports that Halliburton was billing for 42,000 meals a day, and they were serving 14,000. They were overbilling by 28,000 meals. It is just unbelievable when you see the evidence of waste, fraud, and abuse and so little interest in pursuing it.

There is much more to say about this. I did want to say that the story in the New York Times yesterday ought to once again be a wake-up call. There is a commission that has been established, which is outside of this body. The Senator from Virginia, Mr. WEBB, and Senator MCCASKILL and others have worked hard to establish the commission. I think that is a step forward—evaluating and looking at waste, fraud, and abuse. But that is not, in my judgment, a substitute for—it certainly is a complement to but not a substitute for the Congress having a select committee with subpoena power. Without subpoena power and the select committee being able to investigate things like a company getting $243 million to rehabilitate 140 health clinics in Iraq, 3 years later the money is gone and there are only 20 places they have rehabilitated; otherwise the money is gone. So what happened to all the money?

We had testimony from a very courageous Iraqi yesterday who said $18 billion, mostly American money, has disappeared. At least disappeared within his eyesight because he was in charge of anticorruption in the Iraqi Government. He was in charge of the anticorruption unit in the Iraqi Government. They tried to kill him three times. He finally left because he said the corruption was so unbelievable, and he was so unable to stop it. He said $18 billion of American taxpayers' dollars—he believes most of it American taxpayers' dollars—has been wasted.

Later this week, I am going to speak at greater length about the waste, fraud, and abuse issue because we have to stop ignoring it. We have to start confronting it. My colleague, Senator REID, has been very strong and assertive in wanting to address this issue. All of my colleagues on the Democratic side have voted three times to establish a Truman committee.

Let me just mention one additional point. Three weeks ago I met a man named Herman Wouk. He is one of the great authors in American history. He wrote the books ''The Caine Mutiny'' and ''War and Remembrance.'' I believe he is 91 years old. He has an unbelievable command of a lot of things. I was so impressed by him. It was a great honor to meet one of the great American authors, Herman Wouk.

He said to me, somewhat with a twinkle in his eye, he said: Senator DORGAN, I don't know much beyond 1945, but I know everything 1945 and back because I spent my life studying that history. I was part of it in the military. But, he said, I have written about it, I studied it. He said: I know everything about this period.

He said: You know what you ought to do in the Congress. I am reading about all of these things. You ought to do something, establish a Truman committee. Have you ever heard of a Truman committee?

I said: Mr. Wouk, I have. I offered an amendment to do that three times.

Then we talked about what the Truman committee had accomplished when a Democratic President was in the White House and a Democratic Senator wanted to put together that kind of investigative committee. People were concerned about it. The fact is, it got done, and the American taxpayer was served.

This war in Iraq has lasted longer than the Second World War. This amount of waste, fraud, and abuse is the greatest in the history of this country, I am convinced, and we are not near what we should be doing to provide the oversight. It is not the fault of this side of the aisle. It is not the fault of the majority leader. He has been aggressive and so have we. We have offered it time and time again, and we are not going to stop. The American taxpayer deserves better.

I yield the floor and make a point of order a quorum is not present.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DORGAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

STRATEGIC PETROLEUM RESERVE

Mr. DORGAN. Mr. President, before I leave the Chamber, I do wish to mention the Energy Department has made an announcement last week which, once again, stands logic on its head. They have announced they would continue putting oil into the Strategic Petroleum Reserve underground. They are putting about 60,000 barrels of oil underground right now, at a time when the price of oil is $100 or $110 a barrel. They are busy putting 60,000 barrels a day underground.

It makes no sense at all. The Strategic Petroleum Reserve, which is where we store underground that amount of oil we want to use in an emergency is 97 percent full. So the Strategic Petroleum Reserve is 97 percent filled at a time when oil is at a record high. This administration is taking sweet light crude oil, which is a subset of all oil, and a highly valuable subset of oil, and putting 60,000 barrels of oil a day underground.

They have announced beginning in August of this year, they hope to get contracts to do just that. We know that in addition to that, they want to increase that, almost double that, to be around 120,000 barrels a day underground for the second half of the year. They are going to use their royalty-in-kind authorities and likely some of the $585 million they had received when they sold reserves because of supply disruptions caused by Hurricane Katrina.

So here is where we are: We have oil prices that are akin to a Roman candle, going right through the roof, and instead of doing things that would put downward pressure on oil and gas prices, the administration is taking oil through royalty-in-kind transfers, oil payments off the Gulf of Mexico wells, and sticking it underground in the Reserve and taking it out off supply.

I mean, that absolutely makes no sense at all. I followed a car once down a road in North Dakota, an old beat-up car with a back bumper hanging by one hinge. He had a bumper sticker, and the bumper sticker said, ''We fought the gas war and gas won.''

I thought, that is not so unusual. I mean, the other side always wins. But at least this administration, this Congress, ought to insist that we not put oil underground and stick it in the Reserve, when it is 97 percent full. We have to pay $110 a barrel for it and you take oil out of supply, which puts upward pressure on gas prices.

I do not understand who is advising them, but whoever is, I hope perhaps they can find someone with a little deeper reservoir of good judgment att the moment to suspend putting oil underground in the Reserve.

I have a piece of legislation I have introduced that does the following: It would suspend immediately the putting of oil underground in the Reserve for the remainder of 2008 unless oil comes back below $75 a barrel. But as long as it is over $75 a barrel, and the SPR is 97 percent full, let's at least stand up on the side of the average family out there that is trying to figure out how they can get a bank loan to fill their gas tank.

Let's see downward pressure on gas prices rather than allowing this administration to announce on Friday they want to continue to put upward pressure on gas prices by seeking to enter into contracts to continue filling the Strategic Petroleum Reserve.

Now, the Secretary of Energy says: Well this does not matter much. This is a small amount. It is 60,000 barrels a day. What he does not understand, I think, is it is a subset, this is sweet light crude, the most valuable subset of oil we have.

We had testimony before the Senate Energy Committee that clearly indicates this is putting upward pressure on gas prices. We do not know how much. One expert who came before the Energy Committee said 10 percent. But why should we sit idly by and have the administration have a policy of taking oil off the market and putting it underground, especially the sweet light crude?

This is not a debate about whether it is increasing gas prices, it is. The debate is simply: How much does it increase gas prices, and why should we have anyone in this town busy doing things that increase gas prices? How about standing up for the driver? How about standing up for ordinary families for a change?

So I wished to say I noted the press release put out by the Energy Department as a matter of policy. They are wrong, dead wrong. One way or another we are going to deal with it. I chair the subcommittee that funds the Department of Energy. I will have a chance to write the Chairman's mark. That will be a couple months from now. But I definitely intend to deal with that in the Chairman's mark. But I hope before then we can stop 60,000 barrels or more of oil a day from going underground because that is a policy that, in my judgment, flies in the face of good sense.

I yield the floor and suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. NELSON of Florida. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. CARDIN). Without objection, it is so ordered.

Mr. NELSON of Florida. Mr. President, is the parliamentary procedure that we are on the Mortgage Foreclosure Protection Act?

The PRESIDING OFFICER. At the present time, we are still in morning business.

Mr. NELSON of Florida. Mr. President, I will speak as in morning business.

The PRESIDING OFFICER. The Senator is recognized.

Mr. NELSON of Florida. Mr. President, I do wish to say a word about the Mortgage Protection Act, the protection against foreclosure on mortgages. Last Thursday, I had offered an amendment that will be considered perhaps tomorrow and will be voted on and it is a commonsense amendment which says that in order to save somebody's home and not have their mortgage foreclosed on, if they have a pile of cash sitting over in their retirement account, the 401(k), that they would be able to go in and get $25,000 out of their 401(k) retirement plan to use in order for them to forestall a foreclosure upon their home and, therefore, stay in their home.

Now, that is plain common sense, to be able to do that, pull it out, without paying the 10-percent penalty under current law that you would have to pay in order to take money out of that retirement fund and set it aside. Why is it common sense? Because the symmetry of the current law is you can take money out of the retirement fund without paying the penalty in order to buy a home. If you can do that to purchase a home, why would you not want to give a homeowner the opportunity to keep their home from foreclosure by allowing them to go into the retirement fund or 401(k) fund?

It makes common sense, and I am hoping the Senate is going to favorably consider that when we vote on this amendment. It is offered by me and a host of other Senators who are cosponsors.

SEATING DEMOCRAT DELEGATES

Mr. NELSON of Florida. Mr. President, the reason I asked to speak as in morning business is because I wish to talk on another subject that is not the subject of the Mortgage Foreclosure Protection Act but is the continuing saga we have about seating the Democratic delegates to the national convention from the States of Florida and Michigan.

Over the weekend, in the State of Florida, the State party met. Having already elected the delegates under their rules from the various congressional districts, the only thing to complete the election of the Florida delegation was the remaining delegates who are selected at large of the whole State, proportionate to the amount of votes both Senators OBAMA and CLINTON got in the January 29 primary—a primary, by the way, that had a record turnout of 1.75 million, almost 2 million Florida Democrats who turned out and voted. As a result of that, in that proportion to which Senator CLINTON got 50 percent of the vote and Senator OBAMA got 33 percent of the vote, the rest of the delegation of the total of 211 delegates were selected.

So Florida's delegate selection process has gone through under the normal procedures set out by the rules and bylaws of the Florida Democratic Party. So the question now is, now that we have our delegates duly elected, are they going to be seated? Well, of course, you know the position of this Senator from Florida, who has been trying for 9 months now to work a compromise by which we can get the delegates seated. But the Democratic National Committee has completely rejected all the attempts.

Just think, if we had done this last August and September, when we were trying this and had this issue behind us in Florida, how much easier it would be

going forward not to face the nail-biting scenario and drama we see playing out in front of our eyes, since both the candidates, BARACK and HILLARY, are so close, not only in delegates but in national vote and so forth.

At the end of the day, I believe, as the Good Book says, come and let us reason together, that will prevail and the delegation from my State of Florida, as well as Michigan, will be seated. Because at some point, the party chieftains are going to understand that if you want to win the election in November, you can't ''dis'' the delegations from Florida and Michigan. Why? Conventional wisdom says that there are four big States. In order for a Democratic nominee to win, they must get three of those four. What are they? They are Michigan, Ohio to the east, and further to the east, Pennsylvania. What is the fourth? Florida. Well, lo and behold, of those critical States in winning a Presidential election in the electoral college, as a result of the November election, lo and behold, two of the four are Florida and Michigan. So the party chieftains need to start focusing on November and the treatment of Florida and Michigan.

Now, I can only speak for Florida—and I know Senators LEVIN and STABENOW can certainly speak for their State, and they have been trying as well—but it is time to get a formula by which we can seat the delegations.

We have tried everything since the Democratic National Committee last September said: No, the rules say we can take away half your delegates. But, no, we are going to take the full pound of flesh, and we are going to take away all your delegates, Florida. Then they left me no choice but I had to sue the chairman; my party, the Democratic National Committee, I had to sue them in Federal court. The Federal district judge in Florida did not agree with my constitutional arguments and dismissed the lawsuit. I disagreed with his reasoning because I think the constitutional protections of due process and equal protection of the laws do apply, but nevertheless I didn't have time to file an appeal because January 29 was fast upon us, so it is what it is.

Since then, I have been trying several different things, along with members of the Democratic congressional delegation of Florida. This is one of the most recent I have suggested, and other members of the delegation have as well. Since the Democratic National Committee's rules say that if a State moves earlier than February 5, that the DNC will take away half of that State's delegates to the national convention, let's try that as a means, in the spirit of compromise, of getting the Florida delegation seated. Of course, since all 211 are now elected, duly, in the processes of Florida, you can seat the whole delegation if such a compromise were struck by giving each of them half a vote. In the spirit of compromise, let's get that done.

Four weeks ago, on this floor, when we had that all-night session, the Presidential candidates were all here. Of course I took the opportunity to speak to Senator OBAMA and Senator CLINTON about such a compromise. In terms of raw politics, if the whole delegation were seated, Senator CLINTON would have an advantage of 38 votes, but if you seat the delegation with half of its vote, in the spirit of compromise, you cut that in half, and her advantage from Florida would be only 19 delegate votes.

I make my appeal again to the DNC. Nobody is happy with where we are. Every time anybody gets on the news programs talking about the Presidential contest, which is vigorous and close, everybody asks the question about what to do about Michigan and Florida. Everybody is starting to understand that it is time to get this decision done, a compromise to get the delegation seated, and to move on. The problem is, when you come to these kinds of decisions, one candidate sees that it advantages them and the other candidate sees that it disadvantages them, and it is very difficult to get an agreement. However, the question has to be injected: At the end of the day, what is most important? I submit that at the end of the day, it is clearly in the interests of the Democratic nominee to be able to win the votes, on November 4, from the State of Florida and from the State of Michigan. You say: Does that mean those States wouldn't vote for the Democratic nominee? I can only tell you what the data say. The data—surveys in Florida—say 22 percent of independents in Florida would be less likely to vote for the Democratic nominee because of all this fracas.

In truth, once we get a nominee, the electorate is going to be focused on the November election and choosing the leader of the free world and a leader who can straighten out the mess we find ourselves in and the huge challenges facing this country.

Let me give an example. I was stunned over the weekend to find this result to this question in a major national survey: Is this country going in the right direction or is it going in the wrong direction? I was stunned to see the results, that 81 percent of the American people were saying the country was going in the wrong direction. That is a phenomenal response that begs for leadership in whom we select as the next President of the United States. I do believe we will see down the road, once we have our nominee, that people get focused on that instead of the fracas we now have enveloping Florida and Michigan.

My final comment, since we have been joined by the esteemed senior Senator from California, the chairman of the Rules Committee: If ever there is an opportunity for reform, it is now. If ever there is a reminder to us that this chaos begs for order to emerge out of the chaos, if ever there is an example of Americans being dissatisfied with a nominating process, it is now. If you leave it alone and let it take its natural course, what is going to happen is States, in the next election, 4 years down the road, are going to be jumping each other. Suddenly, your first caucus or primary is going to be on Halloween, and as a result you will have an even more chaotic situation. So this begs for a rational plan.

Senator LEVIN and I have offered such a rational plan. It is one idea. There are many. Ours would have six primaries, interregional. They would start in March and go through June, and the order of the States collected together interregionally around the country, big States and small States together, would be done by lot, by drawing a number out of a hat, 1 to 6, whether they go first in March or are last, No. 6, in June. Then 4 years later they would rotate, and the 2's would go to 1's and the 1's would go to the end for the June primary.

That bill has been referred to the Rules Committee. It is an idea. Obviously, in the tumult and the hurly-burly of a Presidential campaign, we are not going to move on legislation such as this. But down the road, in the next Congress, after this election, the chaos begs for order, a rational plan of selecting our Presidential nominees.

I have offered a number of other suggestions as well. Make elections easier. Why do we have to vote just on 1 day—a Tuesday—when people often find it very difficult to get off of work or to go to work late or to get home early in order to vote? Why don't we make elections easier for people? Why don't we give them a 2-week period prior to the election that they could go to designated places in their county to vote early? Why don't we make it a lot easier for people to vote, if they want to vote by mail, which is—we traditionally call it an absentee ballot. Let's enable them to call up the supervisor of the elections office and get an absentee ballot without them having to swear they are not going to be in their community on the day of the election or without them having to swear they are sick and cannot get to the poll. Why don't we make it easy? Why don't we give grants for people back in their communities and counties and States to do pilot projects, to study whether we could, in fact, do what Oregon does, which is to vote by mail, where they get 90 percent participation? Why don't we give grants to do a pilot study as to whether the integrity of the voting process could be retained by voting by the Internet in certain circumstances, such as military overseas ballots? Why don't we do all of this in election reform?

Indeed, this Senator would propose the ultimate reach: Why don't we amend the U.S. Constitution and abolish the Electoral College where, in fact, the popular vote for President will determine who is going to be President instead of this arcane, archaic institution called the Electoral College which

has caused, several times in our history, a Presidential candidate to get the most votes but the other candidate is the one who wins because of the Electoral College votes?

What I am saying is we ought to put all these ideas on the table. We ought to make voting easier. We certainly ought to reform the Presidential nominating process. And we ought to consider letting the majority rule in this country.

We have had a reminder in the chaos of this year. Americans are dissatisfied with this process. We need to make it better.

I yield the floor.

The PRESIDING OFFICER. The Senator from California is recognized.

Mrs. FEINSTEIN. Mr. President, I would like to commend the distinguished Senator from Florida. I have watched him over these months, and no one has tried harder than he to move toward a solution with respect to the Florida situation. He has told me on several occasions that never before have as many people voted in an election as did in Florida. I think the Senator mentioned some 2 million people voting in some primary election. It is inconceivable to you, and therefore to us, I believe, to have a convention where Florida is not represented. Of course, the same comments would go for the great State of Michigan.

I just want the Senator to know that I am very appreciative of the efforts he has made to try to settle the situation. I only wish they could have been successful. I do not believe the door is closed. I think the more the people of this country understand how important Florida and Michigan are to the democratic process, there will be strong support to reach some accommodation.

I thank the Senator for all he has done.

(The remarks of Mrs. FEINSTEIN pertaining to the submission of S. Res. 504 are located in today's RECORD under ''Submission of Concurrent and Senate Resolutions.'')

The PRESIDING OFFICER (Ms. STABENOW). The Senator from North Dakota.

Mr. DORGAN. Are we currently in morning business?

The PRESIDING OFFICER. We are.

COLOMBIAN FREE TRADE AGREEMENT

Mr. DORGAN. Madam President, today President Bush announced he was sending the Colombian Free Trade Agreement to the Congress. He expects and demands that we take it up and pass it. I regret he has taken that action because he proposes that we continue failed trade practices of the past. That makes precious little sense for this country's interests. I am in favor of trade and plenty of it. Trade advances our interests provided it is fair and mutually beneficial between our country and those with which we have agreements. But I want to cite the record of President Bush in the last 7 years because when I say our trade policy is a failure, let me describe it this way.

When President Bush took office in 2001, our trade deficit was $429 billion. That is way too high. But 7 years later, our trade deficit is $815 billion. When the President took office, our trade deficit was $429 billion. Now it is almost double, $815 billion. In 7 years, this President's trade policies have doubled the trade deficit. We are not only collecting a massive amount of debt around the necks of the American people, they are encouraging the shipping of U.S. jobs overseas.

Now the President says: I have a new policy. Let's do more of the same. If you have trade policies that double the trade debt in this country, and you say let's do more of the same, there is something wrong with that.

Last month we lost 80,000 jobs in this country. Just last week it was announced, last month we lost 80,000 jobs. And what do we get this week from the President? Another proposal of a free-trade agreement.

Let me describe. We have had plenty of practice with these trade agreements. Some long while ago, we had a proposal: We have to have a free-trade agreement with Mexico. At the time we had a $1.5 billion trade surplus with Mexico. The first President Bush began negotiating a free-trade agreement with Mexico. He had a bunch of economists tell us how wonderful this would be; if we can just have a free-trade agreement with Mexico, it would be nirvana. So we did. I didn't vote for it. I led the opposition. But we went from a $1.5 billion trade surplus with Mexico to now a $74 billion trade deficit with Mexico. Think of that. We went from a $1.5 billion surplus to a $74 billion deficit. We are borrowing money from the Mexicans in trade. It is unbelievable. Talk about failed agreements.

This agreement with Colombia is modeled after NAFTA. It is the same. You have a failure. Let's do more of it, the President says. I don't understand that at all. It is a curious strategy to decide: OK, let's hold up a failure and let's suggest we should double it. I don't understand it.

I was watching CNN this afternoon. Wolf Blitzer, who is a terrific broadcaster—kind of breathless from time to time—was describing the President coming out in his announcement and essentially demanding that the Congress pass this free-trade agreement. Wolf Blitzer put up on the screen the description the President offered, saying: Most of Colombian-made goods come into this country with no tariff on them. Many of American goods go to Colombia with a tariff as high as 35 percent.

They put up on the screen this zero and 35 with two arrows, Colombia, United States. I am thinking to myself, it is curious that the President uses this to say we have to have this trade agreement with Colombia, as if we have no leverage with Colombia. We are sending a lot of money to Colombia, and have for a long while, to help President Uribe fight the insurgents, the FARC, the insurgent organization. We are sending American tax dollars down there in substantial quantity. We don't need to do a bad trade agreement with a failed NAFTA strategy with Colombia to get them to reduce their tariffs, if they have tariffs on American goods going to Colombia. All we have to do is say: Look, we are sending a lot of money down here to help you. Get rid of your tariffs. If we don't have tariffs on your goods coming north, don't you put tariffs on American goods going south.

We don't have to pass a bad trade agreement to get that result. We just have to say to President Uribe: We have been bankrolling a fair amount of the effort that you are making, and we are doing it because we want to help you. But in the process of wanting to help you with American tax dollars, we expect you to remove the tariffs.

I have met with President Uribe. I have been in his office in Colombia. I have a lot of respect for him. It is a tough job down there. They have real problems. Some say: This discussion about labor issues and trade agreements is not so relevant. It is pretty relevant in a country where one labor leader is killed every week on average this year. It is pretty relevant when 97 percent of the killings of Colombia labor leaders going back to 2001 have been unpunished—97 percent. It is pretty relevant, it seems to me. I accept that President Uribe has a lot of issues, a lot of problems. We as a country have tried to help him. But it seems to me it doesn't help anybody for this country and for President Bush to try to push through a bad trade agreement.

While I have respect for President Uribe of Colombia, I don't have great happiness about President Uribe being involved in America's political system. He decides apparently that he believes he should comment on our Presidential race. He says, of one of our Presidential candidates, ''I think it is for political calculations that he is making a statement,'' referring to a statement that one of the political candidates for President said that he didn't support this trade agreement with Colombia. So the President of Colombia says:

> I think it is for political calculations that he is making a statement.

I don't think we need the President of Colombia describing motives of our Presidential candidates. There is a perfectly reasonable approach to support or perhaps oppose the Colombian Free Trade Agreement. The reasonable approach is to say we like failure. We want to do more of the same. So give us what you gave us in NAFTA and run a small trade surplus up to a huge deficit.

But there is also a perfectly logical reason for a Presidential candidate or a Member of Congress who may wish to

say at some point: We ought to do a U-turn and say this country is for trade. We are for trade and plenty of it. We believe in trade and plenty of trade. But we demand and insist at long last that it be fair to our country. I don't think the Colombia agreement by itself is some sort of pivotal moment. I don't allege that. But I do say I don't think we ought to sit here with a President who has doubled the trade deficit in 7 years and take advice about what we do in the next 90 days.

These trade agreements have not worked in our country's interest. Trade agreements should be mutually beneficial when we negotiate them, whether it is with China, Mexico, Canada, Europe, or Japan. They ought to be mutually beneficial. I am flatout tired of seeing the results of bad trade agreements.

I guess some may say if you have an $815 billion trade deficit, it doesn't matter. That means over $2 billion a day we are putting in the hands of foreigners because that is what we are buying every day that exceeds our ability to export. We are importing $2 billion a day more than we are exporting in goods. That debt someday will have to be repaid with a lower standard of living in the United States. You would think at long last someone would say this strategy isn't working.

It is true that whether it is the Colombian Free Trade Agreement, the free-trade agreement with Mexico or Canada or the agreements we have with China, it is true that no one in this Chamber is going to lose their job to a bad trade agreement. It is other people who will lose their jobs—people working in manufacturing plants making bicycles or wagons or producing textiles or in high tech.

I wrote a piece once about Natasha Humphries who lost her job. She wasn't a textile worker. She went to Stanford and did everything right, a young African-American woman who did everything right and then went to work for Palm Pilot. Regrettably, her last job was to train the engineer from India who was hired at one-fifth the salary they were paying Natasha Humphries.

So should American youngsters who come out of our colleges, should American workers coming out of our colleges, aspiring to work in engineering, be willing to work for 20 percent of the salary that is paid in this country in order to compete with an engineer from India? Those are questions we ought to start asking in this country.

Everybody says we need to train more engineers and scientists. That is true but not if their first job and their last job is to train their successor who is an engineer in India making one-fifth the salary.

So I went further than talking about Colombia, except to say this: This is not new. We in this Congress have been for so long a catcher's mitt of bad trade agreements from Presidents—for years and years and years—and this trade agreement is the model of NAFTA. It is the same old thing. There are a couple labor provisions and environmental provisions in it, but it is largely the same old strategy.

I just remind my colleagues what happened with Mexico. Nobody writes much about it. Nobody speaks much about it. But we did a trade agreement with Mexico. We had all of these claims, all of these boosts, all of these suggestions of what was going to happen. We had a $1.5 billion surplus with Mexico in our trade relationship; in other words, it was about balanced. Now it is a $74 billion United States trade deficit with Mexico. We end up, some years later, borrowing money from the Mexicans, even as we ship our jobs across the line. That is a trade strategy that I think is bankrupt for our country.

My hope is the U.S. House, which likely will deal with this first, will make short work of it and simply send a message. The message to the President is simple: This country stands for trade. Yankee ingenuity and shrewd Yankee business stand for trade. It is in our blood. But we also stand for fairness, and at last—at long last—this country will begin to write fair trade agreements with other countries that stand up for our country's economic interests as well. Yes, we want to pull up others, but we will not any longer allow trade agreements that push down this country's standards. That has been the case for too long.

Madam President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mrs. MURRAY. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. At this time, morning business is closed.

NEW DIRECTION FOR ENERGY INDEPENDENCE, NATIONAL SECURITY, AND CONSUMER PROTECTION ACT AND THE RENEWABLE ENERGY AND ENERGY CONSERVATION TAX ACT OF 2007

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of H.R. 3221, which the clerk will report.

The bill clerk read as follows:

A bill (H.R. 3221) moving the United States toward greater energy independence and security, developing innovative new technologies, reducing carbon emissions, creating green jobs, protecting consumers, increasing clean renewable energy production, and modernizing our energy infrastructure, and to amend the Internal Revenue Code of 1986 to provide tax incentives for the production of renewable energy and energy conservation.

Pending:

Dodd/Shelby amendment No. 4387, in the nature of a substitute.

Sanders amendment No. 4401 (to amendment No. 4387), to establish a national consumer credit usury rate.

Cardin/Ensign amendment No. 4421 (to amendment No. 4387), to amend the Internal Revenue Code of 1986 to allow a credit against income tax for the purchase of a principal residence by a first-time home buyer.

Ensign amendment No. 4419 (to amendment No. 4387), to amend the Internal Revenue Code of 1986 to provide for the limited continuation of clean energy production incentives and incentives to improve energy efficiency in order to prevent a downturn in these sectors that would result from a lapse in the tax law.

Alexander amendment No. 4429 (to amendment No. 4419), to provide a longer extension of the renewable energy production tax credit and to encourage all emerging renewable sources of electricity.

Nelson (FL)/Coleman amendment No. 4423 (to amendment No. 4387), to provide for the penalty-free use of retirement funds to provide foreclosure recovery relief for individuals with mortgages on their principal residences.

Lincoln amendment No. 4382 (to amendment No. 4387), to provide an incentive to employers to offer group legal plans that provide a benefit for real estate and foreclosure review.

Lincoln (for Snowe) amendment No. 4433 (to amendment No. 4387), to modify the increase in volume cap for housing bonds in 2008.

Landrieu amendment No. 4404 (to amendment No. 4387), to amend the provisions relating to qualified mortgage bonds to include relief for persons in areas affected by Hurricanes Katrina, Rita, and Wilma.

Sanders amendment No. 4384 (to amendment No. 4387), to provide an increase in specially adapted housing benefits for disabled veterans.

The PRESIDING OFFICER. The Senator from Washington.

AMENDMENT NO. 4478 TO AMENDMENT NO. 4387

Mrs. MURRAY. Madam President, I ask unanimous consent that the pending amendment be temporarily set aside so I may call up amendment No. 4478.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The clerk will report the amendment.

The bill clerk read as follows:

The Senator from Washington [Mrs. MURRAY], for herself, Mr. SCHUMER, Mr. CASEY, and Mr. BROWN, proposes an amendment numbered 4478 to amendment No. 4387.

Mrs. MURRAY. Madam President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To increase funding for housing counseling with an offset)

At the appropriate place in the bill, insert:

SEC. . Notwithstanding any other provision of this Act, the amount appropriated under section 301(a) of this Act shall be $3,900,000,000 and the amount appropriated under section 401 of this Act shall be $200,000,000.

Mrs. MURRAY. Madam President, it is not my desire to debate this amendment at length at this time. I only

wanted to call it up so it will be available for the Senate to consider as we continue to debate this extremely important housing bill that is in front of us.

Late last week, the Senate considered the question of additional funding for housing counseling. When the Senate voted on that matter, there were 16 Senators who were absent from the Chamber. So that amendment did fail at the time on a procedural vote. But I do believe some Senators may have voted against our initial amendment because it added funds to the overall cost of this bill. The new amendment I have just called up will add the necessary funding for housing counselors from within the funds already in the bill.

Senator SCHUMER and I are going to be talking about this amendment in greater detail at the appropriate time. I think as we continue to try to address the housing issue, we all remember there are up to 2 million families who may go into foreclosure this year, and our main objective ought to be to make sure they do not go into foreclosure. That is what this housing counseling funding does. It is extremely important. I hope as we move this bill along we will be able to add the additional funding.

Madam President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. ALEXANDER. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RENEWABLE ENERGY

Mr. ALEXANDER. Madam President, over the last several weeks, a number of visitors have come to Capitol Hill urging us to support renewable energy. There is a lot of interest in this country for so-called renewable energy. The idea is for us to be less dependent on energy that is shipped from other parts of the world. Some of those places are unfriendly to us.

A number of us are also very concerned about climate change, and we would like cleaner energy. Renewable energy is usually cleaner energy. Some of us, as I do, live in parts of the country where clean air is a problem. We have coal plants that produce sulfur and nitrogen, and now we have become more concerned about mercury, so we are interested in clean air. So if there is some way to find new sources of renewable energy which can help our country have cleaner air, deal with climate change, and be less dependent on other countries, that would be a terrific thing for the United States of America.

Senator ENSIGN and Senator CANTWELL, the Senators from Nevada and Washington, have offered to the housing bill an amendment that would provide support for renewable energies. I would like to talk about the Ensign-Cantwell amendment No. 4419, and I hope I would be construed as talking about it in a friendly way. Because Mr. KYL, the Senator from Arizona, and I have a proposal, amendment No. 4429, which we have already introduced that we believe would improve the Ensign-Cantwell amendment in support of renewable energies. I would like to talk about that amendment for a few minutes this evening.

Today, the Federal support for renewable energy is basically in a piece of legislation called the renewable electricity production tax credit. That gives 2 cents or 1 cent for each kilowatt hour produced of renewable energy to a variety of emerging technologies.

In summary, the Ensign-Cantwell amendment extends the production tax credit for 1 year in its current form, with the addition of wave and tidal as a qualified emerging technology. Senator KYL and I propose to double the amount of time that the tax credit is extended from 1 year to 2 years to focus it more on emerging rather than proven technologies, to focus it on baseload technologies—that is to say technologies that will produce large amounts of reliable electricity around the clock and not just from time to time—and that would treat the various technologies the same, and it wouldn't cost any more than the estimated $6 billion or $7 billion over the next 10 years that the Ensign-Cantwell amendment would cost.

So that is our goal: to extend from 1 year to 2 years the extension; to focus on emerging baseload technologies to treat wind fairly, which has been the proven technology that has received most of the support to date; and not to spend more money than Senator ENSIGN and Senator CANTWELL have proposed.

Here is a picture of where we are today. The renewable electricity production tax credit began in 1992. As with many Government subsidies, in the early stages it was suggested that it would just be there for a while until the technology was proven and then we would step back and let it flourish on its own in the marketplace. But the year 1992 was a long time ago.

Here are the technologies that today get Federal support through the renewable electricity production tax credit. Getting 2 cents per kilowatt hour are closed-loop biomass, which is the burning of plant materials grown specifically for energy production; and geothermal, heat from underground. Solar received this support for several years, but it was removed in 2005 because this is a tax credit that focuses on energy produced, and most people who use solar power put panels on their roofs so they weren't really selling that power to the grid or to the utility company. So the solar manufacturers and others came to me, among others, and said this production tax credit isn't doing anything for them.

In the Energy Policy Act of 2005, I was the sponsor of a proposal that increased the amount of Federal subsidy for the solar panels. Now, there is within the Federal law a separate provision that provides an investment tax credit for what appears to be a very promising idea called solar thermal powerplants. Instead of putting a panel on your roof, what you would have instead is a whole field full of mirrors that would then catch the Sun, turn it into steam, put the steam underground, and then you could use the steam as you need it to produce electricity.

What people often forget about solar and wind energy is it is available when the Sun shines and when the wind blows, and that may not be when you want to turn your air-conditioning on or run your computer. The solar thermal plant has the potential of being a 50-megawatt plant or a 100-megawatt plant or a 500-megawatt plant. Solar thermal is beyond the experimental stage.

I believe Pacific Gas and Electric on the west coast is putting in one 500-megawatt solar thermal plant. There may be another. If there can be solar thermal powerplants, that would be a tremendous addition to our arsenal of electricity-producing facilities in this country because most parts of America can benefit from solar power if the technology can catch the sunlight and we can store this solar energy. Basically, with solar and wind, you have always had to use it or lose it, and if the wind blew at midnight but your air-conditioner was on at 5 o'clock, the wind power, or the solar power for that matter, was not of much value.

So closed loop biomass, geothermal, and wind are receiving a tax credit of 2 cents per kilowatt hour of electricity produced. These have been preferred. This is an example of the Government doing what I don't much like, along with many others on this side of the aisle, which is called picking and choosing technologies. I would rather see, if we are going to subsidize toward an objective, that we let the marketplace pick the technology. But we, in our wisdom, have said today biomass, geothermal, and wind get 2 cents per kilowatt hour of electricity produced and sold to a utility for distribution to customers.

Now, over here on the 1-cent side, 1 cent per kilowatt hour had been and would, under the Ensign-Cantwell bill, continue to be open-loop biomass, small irrigation power, landfill gas, trash combustion—Johnson City, TN, made a contract with a private company that takes its landfill trash and over the next number of years makes electricity from it and pays the city $1 million a year, which helps reduce property taxes. So that is promising. Also, qualified hydropower, about 7 percent of our electricity in the United States comes from rivers and dams. It is small, new hydropower projects that are qualified to receive this tax credit. Wave and tidal facilities are interesting. In the East River in New York,

they are taking what amounts to be wind turbines and putting them under the water. There is more energy in the waves and in the rivers than there is in the air; in fact, so much that it broke the blades from the turbines and they are having to replace them, but at least there is energy there. We would subsidize that to the tune of 1 cent per kilowatt hour under the Ensign-Cantwell proposal.

Here is the difference that Senator KYL and I would make. We would move wind to the 1-cent per kilowatt-hour column. Why would we do that? Because wind is a proven technology. We know it works. Where the wind blows, such as in Texas and the Great Plains states, wind works. The electricity produced is competitive. Where it doesn't blow, such as on Buffalo Mountain in Tennessee—the Tennessee Valley Authority ratepayers are paying some big bill to developers in some other big city to put up a bunch of wind turbines on top of our mountaintops that only work 10 percent of the time in August when we need the electricity the most. So it may work in Minnesota and South Dakota, but it doesn't work in the foothills of Tennessee.

So wind is a proven technology. We would like to focus more on technologies that have the capacity of becoming baseload technologies; that is, that might produce large amounts of electricity all day and all night if we needed it. Wind can't do that. Solar, until lately, hasn't been able to do that. But biomass, geothermal, irrigation power, landfill gas, trash combustion, hydropower, wave and tidal, all of those have a potential—a potential—to substitute for what we use today, which is primarily coal, nuclear power, and gas.

So the Alexander-Kyl proposal would, for about the same amount of money, give 2 years of business certainty to those emerging renewable energy technologies. It would focus then on the emerging ones, not the proven ones. It would focus on those that have the capacity to produce baseload power. It would treat wind fairly because wind would still get, under our amendment, 2 years instead of 1; and wind would, based on my computation, get more of the Federal dollars than any other of the types of technology, and the extended tax credit would, as amended, cost about the same.

Now, let me go to a picture of where our renewable electricity comes from today. This green line, this is wood, burning wood; bonfires, one might say. We call that biomass, I guess, in scientific terms. Biomass has consistently produced about 35 million Megawatt-hours of electricity over recent years. That is a fair amount of electricity. This is waste, such as the landfill at Johnson City, TN, that I was describing, where we take what we have disposed of and turn it into electricity. That is beginning to amount to something. Our waste is being burned to consistently generate about 15 million Megawatt-hours of electricity.

The red line is geothermal. It is also consistently generating about 15 million Megawatt-hours of electricity per year. I have seen some of these technologies. You drill deeply into the ground, and the heat comes up and you can use that on a regular basis.

The yellow line is wind. We can see that it has increased rapidly since 1999. It has been the technology that has grown the most, although it is still less than 1 percent of all of the electricity that we produce. Then down here at the bottom is a blue line which is solar. The reason the solar is so small is because this represents electricity which is sold to the utilities; as we say, sold into the grid. Most people haven't sold their solar power into the grid. They have just put the panels on top of their houses or their businesses and used it when it was available to reduce their demand for electricity from the grid.

Now, let me go to the larger overall picture of where our electricity comes from because if we are talking about a realistic use of limited dollars—and we do have limited dollars in the Federal Government—sometimes it doesn't seem as though we know that. Where will we put those dollars? Ensign-Cantwell say let's add about $6 billion or $7 billion toward this worthy goal of renewable energy.

Well, let's look at the whole picture. This is where our electricity comes from today. We are not a desert island. The United States of America uses a lot of electricity, about 25 percent of all of the electricity in the world for about 5 percent of the people. That is the number of us who are Americans. How do we produce that electricity? Today, almost half of it is coal. Half of the electricity is coal. If coal disappeared, the lights would go off, the industries would stop, the computers would shut down, and there would be a revolution in our country. Forty-eight percent comes from coal.

Next comes gas, natural gas. During the 1990s, almost all the new powerplants were natural gas. The advantage to that was they were predictable, and easy to build. Investors in utilities could make practical business decisions, and they were cleaner than coal in terms of nitrogen and sulfur and mercury and carbon. The problem is it drove the cost of natural gas from $2 a unit to—at one point in the last few years $14 or $15 a unit—and begin to drive almost all of the chemical industry jobs and many other manufacturing jobs out of the United States. It began to drive up the cost of farming so that many farmers have a hard time making a profit because natural gas is used to make fertilizer, and that drove up the cost of food to people who couldn't afford to pay more for it.

So using natural gas increasingly for electricity is not a good idea for our country right now, particularly since the Congress the other day voted down my amendment by 52 to 47 to allow us to drill offshore for more natural gas so that we could increase the supply and reduce the price and reduce our dependence on foreign natural gas. So that is second. And third is nuclear power. Nineteen percent of all of our electricity in America comes from nuclear powerplants, which have the advantage of having no nitrogen, no sulfur, no mercury, and no carbon, if one is concerned about climate change. Then comes hydroelectric, which in 2007 produced 6 percent of our electricity in the United States. This is electricity from our rivers and the dams. There are even some parts of the United States where people want to take the dams out of the rivers for a variety of environmental reasons, which may be good reasons, but that will reduce one source of clean electricity. Then we get down to oil, petroleum.

Sometimes we get oil confused with electricity. We do not use much oil to make much electricity in this country. We use some natural gas. We use oil in automobiles for fuel, but we don't use it for electricity. Actually, it produces about the same amount of electricity as all the renewable technologies put together. Wood is less than 1 percent; waste is half of 1 percent; geothermal, half of 1 percent; solar is not sold into the grid; wind is not even 1 percent. The point is, the renewables are less than 3 percent of the electricity we use.

We live in not only a big economy but a growing economy. The Tennessee Valley Authority, in the area where I live, in 7 States, has said to me they need 700 more megawatts of electricity every year during this next few years. The Dominion Power Company, which is Virginia, I read in the Washington Post the other day, is estimating they need 400 more megawatts. Madam President, 700 megawatts is more than one gas plant or more than one coal plant or a little more than half of a nuclear powerplant, which today takes 8 or 10 years to build. We not only use a lot of electricity, primarily produced from coal, nuclear, and gas, and very little from renewables, but it is growing, and if it doesn't grow, our incomes will go down and we will not enjoy that same high standard of living.

I know, having been a Governor, when I was recruiting Nissan to come to Tennessee and Saturn to come to Tennessee—now one-third of our manufacturing jobs in Tennessee are automotive jobs, and we have nearly 1,000 suppliers of auto parts in Tennessee—one of the most important items in our favor after location and a right-to-work law is the supply of large amounts of reliable, low-cost, clean electricity because that is not available everywhere in the United States and certainly not everywhere in the world.

This is the picture of where we get our electricity and what we are talking about in the Ensign-Cantwell amendment. The amendment Senator KYL and I have is to increase this renewable electricity from about 3 percent of all the electricity we produce to something a little higher. But in the next 10

or 12 years, it is not going to be a lot higher. It will be somewhat higher, and we hope we stumble upon something that will make a big difference. Even though, for example, wind has been around and heavily subsidized since 1992, it is still only eight-tenths of 1 percent of all the electricity produced in the United States.

The only difference in this next chart title is the word ''clean.'' We care about clean really for three reasons: nitrogen, sulfur, and mercury. Federal ozone standards were stiffened recently. That means Knoxville, Chattanooga, Memphis, and cities in our region have to work harder to have cleaner air to meet those standards because a lot of the dirty air comes in from other parts of the United States which have dirty plants, mainly coal plants.

The clean electricity, which we prefer—and this is the reason the TVA is now focused on nuclear production—is 69 percent nuclear. That is an important figure for anyone who cares about clean air and climate change. Nearly 70 percent of all the clean electricity produced in the United States today is nuclear power; 21 percent of it is hydroelectric. There are not going to be more dams on rivers. And this little bit here, which all adds up to about 8 or 10 percent, is renewable energy. So if you care about climate change and if you care about clean air in this generation or in the next 10 years, you better look at nuclear or hydroelectric. Hydroelectric will not grow rapidly because there are not going to be a lot more dams, or we better be realistic about renewable or look at one other area, which would be conservation.

What have we done with our money? We have tried to focus, so we say, on renewable energy. I noticed in the debates here people talk about all the different kinds of renewable energy. The fact is, almost all of our investment has gone to wind. This, I imagine, would startle most Senators to know, that over the next 10 years, we are already committed to spending $11 billion subsidizing wind power although it produces less than 1 percent of our electricity and it does not produce it when we need it, it does it when the wind blows. But we have proven we can produce electricity from time-to-time when the wind blows. We have large amounts of huge turbines that are going up around the country, some in our most scenic areas, which in some parts of America are providing useful power, but at what cost?

This is a recent report that I asked for and just received this week from the Energy Information Administration where I asked: How much are we spending of the Federal taxpayers' dollars to subsidize the electricity we are using in this country?

Remember, coal produces about half the electricity we are using at this minute in the United States of America—44 cents per megawatt hour. Refined coal, which is a very small part of coal, is a very expensive subsidy—at this moment, the biggest Federal subsidy for electricity. For natural gas, almost nothing, a quarter per megawatt hour; nuclear, $1.59 per megawatt hour; biomass, 89 cents; geothermal, less than a dollar; hydroelectric, two-thirds of a dollar; solar, $24 per megawatt hour for Federal subsidies of electric power. This is a little misleading because, as I mentioned earlier, almost no one sells electricity today into the electric grid. That is all this represents. If you had extra electricity from the panels on your roof and you sold it to the local power company, that is what this would be. Only few people do that today.

In the future, we may have solar thermal plants. Wind we have quite a bit of, and we spent $23.37 per megawatt hour actually produced for wind. Landfill gas, $1.37; municipal solid waste, 13 cents; all renewables average $2.80, and all sources, $1.65.

I would argue wind is over subsidized, that we are not making the wisest use of our Federal dollars when we take a proven technology and spend $24 per megawatt hour and we starve a lot of the other emerging technologies and we ignore what we are spending for the ones on which we rely.

For example, we spend $24 per Megawatt hour for wind and $1.59 for nuclear. Nuclear produces 70 percent of our clean electricity. Wind produces about 2 percent of our clean electricity. If we were subsidizing nuclear power at the rate we subsidize wind, we would be spending $340 billion over the next 10 years for nuclear power. No one is proposing we do that. It would not be a wise expenditure even though it is a working technology that today provides most of our power, and if we are going to deal with climate change in a new generation, we would have more nuclear power.

I am doing this to show how disproportionate our renewable energy subsidies have become.

Coal provides half of our electricity. We have two problems with coal: one is it has too much of three pollutants—nitrogen, mercury, and sulfur—and the other is carbon. We can get the nitrogen, sulfur, and mercury out of coal almost entirely. So would it not be better to spend some of this money on coal and have clean air or to spend some of this money on investing in the recapture of carbon from coal plants so they can be operated cleanly?

One of the major environmental organizations has a coal solution for climate change because it knows China is producing two new dirty coal plants a week, and unless we invent a clean way to use coal, which means also getting rid of the carbon, then the rest of the world will not use it. If we do it, they will do it also or they will suffocate. If they do not do it, we will soon suffocate because the air blows all around the world and comes back to Los Angeles and then Wichita and then to Knoxville, Nashville, and Memphis as well.

This list of federal subsidies of electric power from the Energy Information Administration is a very revealing chart. It would suggest that at the very least, what we might do with a proven technology, wind, which is competitive where the wind blows and not competitive, obviously, where it doesn't, is take some of that money and focus it on some of the other emerging technologies which have been starved over the last 15 years because wind has gobbled up most of the money, and these new technologies have a capacity for being baseload technologies.

The solar thermal powerplant is a very good example. If it works for the Pacific Gas & Electric company, I bet you the Tennessee Valley Authority, within a short period of time, will start building it for reliable power plants. Why would they do that? Because last summer, in the middle of our drought, when we were all sweating and the rivers had run dry and lakes had run dry and our air-conditioners were turned up, the TVA had to go out and buy 6,000 or 7,000 megawatts of electricity. What did they buy? They bought natural gas because it was all that was available. They were paying—and I know my numbers are going to be a little off here—they were paying in the neighborhood of $78 or $80 per Megawatt hour for natural gas as compared to $2 per Megawatt hour for electricity from their hydro plants. They badly need some other form of clean energy.

Why spend 2 cents per kilowatt hour on wind when we can still subsidize wind generously at 1 cent per kilowatt hour and release enough money to extend to 2 years the length of the subsidy for other emerging technologies?

Just to be specific, the percentage of the renewable electricity production tax credit that goes for wind energy is 75 percent. In other words, 75 percent of all the money we give to renewable energies goes to wind. It does not go in meaningful amounts to this broad list of renewable technologies. Over a 10-year period, from fiscal year 2007 to 2016, according to the Joint Committee on Taxation, in a letter they wrote to me in May of 2007, we are committed to spend $11.5 billion, and the Ensign-Cantwell amendment would add another couple billion dollars to that. So we would be spending $13 billion or $14 billion for wind even though we are subsidizing at a rate of $24 per megawatt hour.

Senator BINGAMAN, the chairman of the Energy Committee, said in the debate on the Energy bill in 2007 that wind will receive about 76 percent of the production tax credit subsidy over the next 10 years. According to the Joint Committee on Taxation, in another report, wind energy is estimated to be 74 percent of that, and it is projected to grow as a percentage of the total production tax credit.

What we are doing is increasing our support for a technology that is proven, that is not reliable enough to be used for baseload or for peaking because it only works when the wind

blows, you cannot store it, and it is already over subsidized by a massive amount compared to every form of electricity.

The largest single Federal tax expenditure for electricity over the next 5 years is the renewable production tax credit, and 75 percent of that goes to one proven technology, wind, which is competitive where the wind blows, not competitive where it does not, is not reliable for baseload, and is not reliable for peaking. That is not being good stewards of the Federal taxpayers' dollars at a time when we really do need to encourage renewable electricity and we need to deal with climate change and with clean air.

I have just a couple more points.

As one might suspect, when you are subsidizing something at $24 per Megawatt hour as compared to $1.50 for nuclear and 25 cents for natural gas, you get a big surge in wind capacity. That is what happened during the period of the subsidy. Even with this rapid growth, wind produced 2.7 percent of our clean electricity, of only 0.8 percent of all our electricity. And as I have mentioned several times, wind energy is not reliable. You can't store it. It is not produced when you are likely to need it most.

Another limitation on wind power is it is not available everywhere in the United States. There are some parts of the United States where wind power works fine, and there are some Members of the Senate who love to advocate wind power. You can see where those are. It is where the wind blows down from the North, and it blows on a reliable basis. So you can put up wind, and particularly if you are paying $24 per Megawatt hour to subsidize it, you are going to find a lot of investors in Chicago and New York and around this country that can make a big buck off putting wind up here where it is competitive and where they do not need the subsidy, or putting it down here where the wind doesn't blow, and they apparently get enough subsidy anyway. You may say: Well, if they only get paid when the wind blows, how do they make any money? Well, we have all kinds of tax subsidies for wind, and the production tax credit is one, but there are a number of other subsidies that I am looking for right now. There are subsidies in agriculture. There is the clean renewable energy bonds—the Federal Government. Those can help build the wind turbines. There is the Department of Energy grant incentive programs for renewable energy production. In the farm bill, there will be some renewable energy and energy-efficient grants and loans. Thirty-three million dollars of that goes to wind. There are a variety of State subsidies for wind. Twenty-four States have enacted renewable portfolio standards.

We have gotten all excited about renewable energy, which is a good thing, but what we have forgotten to do to be careful to encourage a wide variety of forms of renewable energy, so that we can have reliable energy that has the capacity to be used as a base load or peak load.

Then there is the other limitation that affects some people and doesn't affect others. Here is the Buffalo Mountain wind project in Tennessee. This is the only wind farm in the Southeastern United States. It is the only one the Tennessee Valley Authority has. There are 18 of these turbines here. They are tall and they are white. They are about twice as tall as the sky boxes in the football stadium at the University of Tennessee.

Now the Senator from Michigan will smile at that, because Michigan and Tennessee have, for years, had a little friendly competition going about who has the largest stadium. We are up to about 107 thousand on a Saturday afternoon, and I think the University of Michigan is at 1,010 or 1,011 people. So they are a little ahead of us now. But to visualize, each of those stadiums have these large sky boxes, and each of these towers is twice as large as those sky boxes. Each one has blades extending from the goal line to opposite goal line. They are white, and they have flashing lights so you can see them from 20 miles away during the day.

We are paying $24 per megawatt hour to subsidize that all over the country—only 25 cents an hour for natural gas—in a place where the wind doesn't blow. Last August, during the drought, that farm was operating at 10 percent. So it doesn't work there very well.

My argument is for realism. I would like to see us have a realistic policy. I would like to have clean air and deal with climate change not only in this generation but in the next 10 years. To the extent we need to do that with electricity, we need to look first at conservation.

The Tennessee Valley Authority operates at about 27,000 megawatts on the average, but every night it has about 7,000, 8,000, 9,000 or 10,000 megawatts of idle capacity. Now, some people remember how Ross Perot made his money. He noticed that in Texas, in the 1960s, the banks were closing at 5 and not using their computers. So he bought their time and came to the States and got a contract to manage Medicaid data, and he made a lot of money doing that. It is the same thing here. We have, in the TVA region, 7,000 or 8,000 megawatts of idle capacity at night. That is seven or eight nuclear power plants. That means we probably have 210,000 megawatts of idle nighttime electric capacity.

We should be spending this $11 billion on smart meters that encourage people to buy electric cars and plug them in at night and use the idle capacity we have already built rather than paying $24 an hour for wind that is proven where it works and would not work where the wind doesn't blow. Or we should take some of that money, as I have suggested with Senator KYL, and focus it on other emerging technologies. Wind has had its chance. It has done well and grown rapidly. Now, I see the majority leader, and I will be through momentarily, because I imagine he has a report to make about Senate business. So I will wind up in this way. What the Kyl-Alexander amendment would seek to do is to improve the Ensign-Cantwell proposal by extending from 1 year to 2 the length of the production tax credit extension by focusing it on emerging technologies, and by focusing it on base-load technologies. Our amendment would treat wind fairly by adding another billion dollars to the $11.5 billion we are already spending for less than 1 percent of our electricity on wind, and that would cost about the same.

I hope our colleagues will consider the Alexander-Kyl amendment, No. 4429, when the Ensign-Cantwell amendment is offered tomorrow.

I thank the Chair, and I yield the floor.

The PRESIDING OFFICER (Mr. WHITEHOUSE). The majority leader.

UNANIMOUS-CONSENT REQUEST—S. 2664

Mr. REID. Mr. President, I appreciate my friend yielding the floor. We are waiting for the Republican leader, who is on his way down here.

Good, he is here. But I do express my appreciation to my friend from Tennessee for yielding the floor.

I wish to speak briefly on the subject of the Foreign Intelligence Surveillance bill, known as FISA. Everyone knows this is a very important issue. The Presiding Officer, a member of the Intelligence Committee and a member of the Judiciary Committee, has worked as hard, if not harder, than anyone else on this issue, and I would acknowledge his wide breadth of knowledge on this important piece of legislation. We have relied on the Presiding Officer to give us direction and understanding of this bill, and he has done that.

We all agree on the need to strengthen the Foreign Intelligence Surveillance Act of 1978. Congress has modernized the act many times since then, and there is broad agreement on improvements that should be made now. I have said many times we need to give the Intelligence community all the tools it needs without compromising the privacy of law-abiding Americans.

The Senate passed its bill in early February. The House, which passed a bill on this subject last November, passed a new version before the Easter recess. The new House bill is similar to the Senate bill, although there remains disagreement over the issue of immunity. In any event, the two Houses must resolve their differences so the final bill can be enacted.

The President keeps giving speeches saying the House must yield to his demand to pass the Senate bill. But that thing we call the Constitution keeps

getting in the way. You can't pass legislation unless the House and the Senate put their stamp of approval on this, and the House has not been willing at this point to move. That is how our system works. The President must work with the Democrats in Congress to find common ground and also give some direction to Republicans in the House and the Senate to negotiate this.

We have tried, since this legislation passed, to work out some type of a compromise. Legislation is the art of compromise. A number of meetings have been scheduled, but with rare exception, Democrats have been meeting with themselves. The Republicans have not been coming to these meetings. There are some positive signs the Republican position may be thawing. I hope that is true. We need good will on all sides to finish this important piece of legislation.

On several occasions, I have proposed a 30-day retroactive extension of the law that expired in February, so the so-called Protect America Act can move forward, at least for a limited period of time. My purpose is to make sure there is no gap in the intelligence-gathering capacity and to set a deadline for final action on a long-term bill. But the President has threatened to veto such a bill, and it has been blocked procedurally by the Republicans.

So I now again propose such an extension. The Republicans may again object. If they do, they bear responsibility for the fact this law is not in place.

Eventually, the President and Republican leaders must come to the negotiating table for the good of the country. We believe that is something that needs to be done and can be and should be done.

I now ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 583, S. 2664, a 30-day extension of the Protect America Act; that further, the bill be read a third time and passed, the motion to reconsider be laid upon the table, with no intervening action or debate.

The PRESIDING OFFICER. Is there objection?

Mr. MCCONNELL. Mr. President, reserving the right to object, I will make a short statement in response to what the majority leader has said before making an objection.

Last August, we passed a 6-month authorization which we called the Protect America Act, and it gave us plenty of time to complete our work. Yet our Democratic colleagues didn't put a bill on the Senate Floor until the week before Christmas. Even then, a Democratic filibuster forced the majority to pull it. We should have turned to it at the start of the year. Instead, we went to Indian health care. That caused another delay, which forced another extension. Our Democratic colleagues claimed this extension would give us enough time to complete our work. Unfortunately, that extension has come and gone.

The Senate used that time to overwhelmingly pass a bill that gives our intelligence professionals the tools they need to protect good corporate citizens whose assistance is essential. As a result, the Senate bill—the bipartisan Rockefeller-Bond bill—is the bill we know can get a Presidential signature. We also know a majority of the House, on a bipartisan basis, would pass it, if they had a chance to. Instead, the House has not used that time wisely. It refused to pass a bill that meets the minimum required criteria.

So now our Democratic colleagues want yet another extension as cover for their failure to responsibly act. What is needed, to keep the program going, is not another extension, not another delay. Rather, we need to get serious in protecting companies that helped protect our country. Right now, these companies face multibillion dollar lawsuits because they answered our call for help. We asked them to come help us. The Government is not in the communications business. They will not continue to help us if they are sued out of existence for doing so. If they do not help us, then, of course, we will not have a program at all.

In short, to ensure the continued functioning of this vital intelligence program, we need to protect our intelligence operations, not the trial lawyers. To address that concern, I ask unanimous consent to modify the UC the majority leader offered by including an amendment at the desk that would enact the liability protections passed by the Senate on an overwhelming bipartisan vote of 68 to 29. That is the liability title of the Rockefeller-Bond bill.

The PRESIDING OFFICER. Is there objection?

Mr. REID. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. MCCONNELL]. Mr. President, if it is appropriate at this time, I object to the original unanimous consent request.

The PRESIDING OFFICER. Objection is heard.

Mr. REID. Mr. President, I appreciate my friend, the Republican leader, coming to the floor and objecting to this rather than having someone do it. He gave his explanation, and I appreciate that. It would have been easy for anyone on the other side to object, and I appreciate his laying out the reasons.

But I would say this is not the way to negotiate on the Senate Floor. We have tried. Senator ROCKEFELLER supported the Senate position. I didn't, but Senator ROCKEFELLER did and a number of Democrats supported the Senate-passed position and that was something Senator ROCKEFELLER recognizes. As a result of that, he has tried very hard—February, March, and, of course, he is also working in April—to try to work something out. But as I indicated, he has called meetings and Republicans would not come. Even the people leading the committee, Senator BOND and others, wouldn't show up for the meetings to try to work something out.

Initially, the White House directed none of its people to come. It is a little tough to work something out when that is, in fact, what is happening. The House must be involved. As I have indicated, that is the Constitution.

We pass a lot of things the House disagrees with. They pass things there that we disagree with. No matter how foolish they may think we are or we think they are, we have to work together and get things passed. That is where we are with this legislation.

I would say to my friend, there is no need to criticize trial lawyers and try to focus blame on any one group of people. There are a lot of consumer organizations that have nothing to do with trial lawyers, who really do not like what the Senate did and they have really made their voices heard.

My friend said this unanimous consent request is cover for failure to responsibly act. I would say I think we are at the point where we are as a result of the White House's irresponsibility. Many say what was done in the Senate is only something to protect the telephone companies, the President, and Vice President from liability. We have even gone so far as to say if, in fact, there is liability, and the phone companies are not responsible for having done this—that they were following orders from the White House or whomever they follow orders from, someone in one of the intelligence communities—then the Government should pay for it. It is called substitution.

Senator LEVIN has pushed this a long time, as has Republican Senator ARLEN SPECTER. It is not as if we are not trying to work through this. It just appears to me, as has happened for more than 7 years with this administration, it is the President's way or no way. I think we have come to the realization here that it is not going to be the President's way. He needs to work with us.

We believe the actions of the President have been irresponsible. But that is what legislation is all about. His people and the Republicans in the Senate and the House should work with us to see if we can come up with something. Just ignoring us is no way to resolve the issue because it appears pretty clear the House is not blinking.

The PRESIDING OFFICER. The minority leader is recognized.

Mr. MCCONNELL. At the risk of prolonging this for just one more moment, it is not a solution to absolve the communications companies of the financial responsibility by having the taxpayers of the United States pick up the tab. What is inappropriate here is litigation in the wake of a response to the Government to protect American citizens. The Federal Government is not in the communications business, not in the telephone business. There will be no program without the companies. It is

the litigation itself that endangers the program, not just the amount of money that might be awarded. Having the taxpayers in effect pay the plaintiffs' lawyers is not the kind of solution that is going to continue the program.

This is an area that cries out for bipartisanship, and that is exactly what happened in the Senate. By an overwhelming vote of 68 to 29, a substantial—I guess every single one of the 29 were Democrats—a significant number of Democrats, more than half, voted for this bipartisan bill. We know for a fact there are 21 Democrats in the House who support what the Senate did. If you add those 21 Democrats to the Republicans in the House, we know there is a bipartisan majority in the House of Representatives to pass the very same bill we passed in the Senate.

I keep hoping we will somehow, through this process, evolve the same kind of spirit that we were able to exhibit on a bipartisan basis in passing the economic stimulus package earlier in the year and that we exhibited last week on the housing bill, which presumably will pass tomorrow or Wednesday. So I have not given up hope. But this is no small matter. This is about protecting the American people from attacks on our homeland.

We know we have successfully protected them for almost 6 years now, since 9/11. I don't think we ought to let our guard down and assume that our enemies have gone to sleep. This is an extremely important issue. I hope at some point we will figure some way forward that gets the job done, but I do not see it at the moment, and I do not think a short-term extension will help us get there.

I yield the floor.

Mr. REID. Mr. President, one brief comment. As the Presiding Officer knows, under FISA as passed in 1978, that is in effect no matter what we do here.

Under the 1978 act, someone can go to a judge and ask that there be this information obtained. We would like it to be streamlined. We think the 1978 act should be modernized. We have been happy to work with the White House and Republicans in the Senate and House to do that. I say that in recent days we have seen signs that there is a thaw in the Republican position.

Does that mean we can get things done? I don't know. But at least people are beginning to talk a little bit and that is good. There have been some staff level discussions that have been very good too. I hope we can work together to bridge the differences between the House and Senate and do everything we can to get that done, but also understanding the 1978 FISA Act gives the President a lot of leeway to get this done anyway.

Mr. MCCONNELL. Mr. President, to prolong it one more moment here, if that were adequate, we would not have passed the PROTECT America bill in the first place. Clearly, the 1978 law is not adequate to meet current challenges. There are many problems with the bill the House took up and passed and sent back over here. One is that it would require prior court approval before our intelligence professionals could monitor foreign terrorists overseas. So the House bill doesn't do anything about the problem. The Senate passed a good bill. I hope at some point the House will wake up here and do what is necessary to protect America.

In any event, the issue is not going away. The program may go away if we can't figure a way to get the job done. This is a very, very serious problem and I appreciate the good faith and attitude of the majority leader. The Senate is really not the problem here. Hopefully at some point the House will realize the best path forward.

Mr. REID. Never let it be said that I tried to get in the last word.

MORNING BUSINESS

Mr. REID. Mr. President, I ask unanimous consent the Senate proceed to a period of morning business with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

GREEK INDEPENDENCE DAY

Mr. REED. Mr. President, on March 25, 2008, we marked the 187th anniversary of Greek independence. Throughout 400 years of oppressive rule by the Ottoman Empire, the Greeks were able to maintain their language, religion, and their sense of identity. In 1821, the Greeks began an 8-year war of independence and in 1829 became the first country within the powerful Ottoman Empire to achieve its freedom. Today, Greece remains one of the oldest democracies in the world, a tribute to those brave Greek citizens who risked everything in the quest for liberty and freedom.

Our own Founding Fathers were deeply influenced by the philosophers and statesmen of ancient Greece who first imagined the idea of a republic. The United States enjoys a long history of cooperation with our Greek friends, and we owe much of our civic foundations to the Greek concept that the power to govern is vested in the people.

Throughout the 20th century, Greece has been a stalwart ally, and is one of only three countries in the world outside the British Commonwealth that has allied with the United States in every major international conflict. American and Greek soldiers have fought alongside each other in efforts to advance freedom, democracy, peace, and stability. In this century the Greece-U.S. relationship has deepened as the two countries have partnered to spread greater security, stability, and prosperity throughout the Mediterranean, Southeastern Europe, and the Caucasus. Today, Greek defense forces are deployed as part of the International Security Assistance Forces in Afghanistan, maintain two battalions of troops in Kosovo as part of the NATO peacekeeping force, train Iraqi military officers at the Multi-National Peace Support Center, and provide logistical support to U.S. military forces throughout the Mediterranean region.

The historic friendship between Greece and the United States has been one of mutual respect and support. In history they have inspired, and in the present they enliven our great Nation. It gives me great pleasure to join my colleagues as a cosponsor of S. Res. 476 designating March 25, 2008, as ''Greek Independence Day: A National Day of Celebration of Greek and American Democracy.'' I send all Greek Americans my best wishes as we celebrate Greece's independence and contributions to our national heritage.

NATIONAL MONTH OF THE MILITARY CHILD

Mr. KENNEDY. Mr. President, I urge support for S. Res. 500, which honors military children. The children of our servicemen and women in the Armed Forces have been deeply affected by the invasion in Iraq and Afghanistan. Thousands of children have lost a parent serving in Operation Iraqi Freedom and Operation Enduring Freedom, and tens of thousands more must deal with the daily pressure of their parents' deployment. Military children clearly deserve our support.

Even in times of peace, these children pay a high price as they are typically required to move to many new locations several times during their formative years. The Department of Defense agrees that these multiple moves can make it more difficult for military children to do well in school, form lasting relationships with peers and adults, or cope with emotional issues ranging from loneliness to anger to depression.

In spite of all the challenges facing military children, they persevere. Children attending Department of Defense schools continue to have some of the highest test scores in the country. They rank 8th or better in all categories in comparison to the states in every national test, and they rank first or second in all categories for African-American and Hispanic students. Military children also have high school graduation and college enrollment rates significantly higher than the rest of the Nation's children. One study estimates that about 75 percent of children who graduate from high school with one or both of their parents in the military go on to college. That's significantly higher than the national average of 67 percent.

These are all accomplishments to be proud of. Military children unquestionably deserve our support, and the resolution offered by Senator BAYH recognizes them and pays tribute to their commitment, sacrifice and unconditional support for their parents and

their country. These youth are the children of our national heroes and their perseverance, patriotism and achievements make them heroes in their own right.

Despite all the obstacles they face, military children continue to succeed. I commend Senator BAYH for his leadership in offering this important resolution and urge the Senate to support it.

100TH ANNIVERSARY OF THE CHILDREN'S HOME SOCIETY OF IDAHO

Mr. CRAIG. Mr. President, I rise today to mark the 100th anniversary of the Children's Home Society of Idaho.

For the past century this organization has served Idaho's abandoned, abused and neglected children, first as an orphanage, and now as a counseling and foster care support system. Through the efforts of this remarkable organization, tens of thousands of lives have been touched and changed for the better.

Over the past 4 years, I have become acquainted with the society's newest program, ''The Bridge.'' This program is a partnership with the Junior League of Boise, Inc., and the Idaho Department of Health and Welfare. It was created to address the crisis Idaho and the rest of the nation are facing with an abundance of children entering foster care, and a lack of homes providing the care those children so desperately need and deserve.

''The Bridge'' is now helping Idaho to meet its obligation to these children by bringing the State into compliance with federal mandates and by leading the way for significant foster care reform.

As an adoptive father who is familiar with the trials and challenges of the foster care system, I commend the Children's Home Society of Idaho for its contribution to America's children and families and am honored today to mark this important milestone.

ADDITIONAL STATEMENTS

TRIBUTE TO AMY STOUT

● Mr. ROCKEFELLER. Mr. President, today I honor a courageous and dedicated young West Virginian: Ms. Amy Stout.

Before Amy even graduated high school, she joined the National Guard to help finance her college education. Shortly after Amy started her freshman year at Wesleyan, pursuing a degree in psychology, the events of September 11 took place. Within hours of that terrible event, Amy found herself guarding the wreckage of United Flight 93, near Shanksville, PA.

Amy remained activated with the National Guard for a year, serving Stateside in the Pocono Mountains of Pennsylvania while working to complete her first semester of school. Then, in the fall of 2002, Amy was once again activated, but this time she was sent to Camp Anaconda, north of Baghdad.

At a time when her fellow Wesleyan students were enjoying college life, Amy was serving her country as a gunner, providing security for 300-mile convoys. After her 12-month deployment, Amy returned to Wesleyan, determined to help people in as direct a way as possible. She changed her major to nursing.

Amy continued to pursue her nursing degree until, once again, the military called and Amy was sent back to Iraq, this time for 18 months. Amy's tour of duty ended on September 10, 2007, and she was back at Wesleyan the very next day, September 11, exactly 6 years after she was first activated by the National Guard.

In May 2008, Amy Stout will graduate with her nursing degree. She is a testament to the incredible bravery of our soldiers who sacrifice so much to protect this country. Her determination is an inspiration to her fellow students and her fellow West Virginians. She has served this nation with great honor and dignity and soon she will be a tremendous asset to the nursing profession.

It is with great pride that I congratulate her on her upcoming graduation and thank her for her service to this Nation.●

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Williams, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC–5665. A communication from the Chief Financial Officer, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Debt Management'' (7 CFR Part 3) received on March 12, 2008; to the Committee on Agriculture, Nutrition, and Forestry.

EC–5666. A communication from the Acting General Counsel of the Department of Defense, transmitting legislative proposals for the National Defense Authorization Bill for Fiscal Year 2009; to the Committee on Armed Services.

EC–5667. A communication from the National Executive Secretary, Navy Club of the United States of America, transmitting, pursuant to law, the organization's national financial statement for the year ending July 31, 2007; to the Committee on Armed Services.

EC–5668. A communication from the Assistant Secretary, Department of Homeland Security, transmitting proposed legislation relative to the passenger aviation security fee; to the Committee on Banking, Housing, and Urban Affairs.

EC–5669. A communication from the Secretary of Agriculture, transmitting proposed legislation entitled, ''The Rural Housing Section 502 Guaranteed Loans Enhancements Act of 2007''; to the Committee on Banking, Housing, and Urban Affairs.

EC–5670. A communication from the Attorney, Office of Assistant General Counsel for Legislation and Regulatory Law, Department of Energy, transmitting, pursuant to law, the report of a rule entitled ''Defense Priorities and Allocations System'' (RIN1991–AB69) received on March 4, 2008; to the Committee on Banking, Housing, and Urban Affairs.

EC–5671. A communication from the Chairman, Defense Nuclear Facilities Safety Board, transmitting, pursuant to law, a recommendation entitled, ''Safety Classification of Fire Protection Systems''; to the Committee on Energy and Natural Resources.

EC–5672. A communication from the General Counsel, Federal Energy Regulatory Commission, transmitting, pursuant to law, the report of a rule entitled ''Cross-Subsidization Restrictions on Affiliate Transactions'' (Docket No. RM07–15–000) received on February 26, 2008; to the Committee on Energy and Natural Resources.

EC–5673. A communication from the Administrator, Environmental Protection Agency, transmitting a legislative proposal intended to implement an important new treaty for the protection of aquatic life and the marine environment; to the Committee on Environment and Public Works.

EC–5674. A communication from the Director, Office of Personnel Management, transmitting a legislative proposal entitled, ''Federal Employees Short-Term Disability Security Act of 2008''; to the Committee on Homeland Security and Governmental Affairs.

EC–5675. A communication from the Administrator, General Services Administration, transmitting a draft bill entitled, ''The General Services Enhancement Act of 2008''; to the Committee on Homeland Security and Governmental Affairs.

EC–5676. A communication from the Acting Chief, Border Security Regulations Branch, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Addition of San Antonio International Airport to List of Designated Landing Locations for Certain Aircraft'' (Docket No. USCBP–2007–0017) received on March 6, 2008; to the Committee on Homeland Security and Governmental Affairs.

EC–5677. A communication from the Principal Deputy Assistant Attorney General, Office of Legislative Affairs, Department of Justice, transmitting, pursuant to law, a report entitled, ''Federal Information Security Management Act''; to the Committee on Homeland Security and Governmental Affairs.

EC–5678. A communication from the Director, Office of Indian Energy and Economic Development, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''Tribal Energy Resource Agreements under the Indian Tribal Energy Development and Self-Determination Act'' (RIN1076–AE80) received on March 12, 2008; to the Committee on Indian Affairs.

EC–5679. A communication from the Assistant Secretary, Office of Legislative Affairs, Department of State, transmitting, pursuant to law, the report of a rule entitled ''Visas: Documentation of Immigrants under the Immigration and Nationality Act, as amended'' (22 CFR Part 42) received on March 10, 2008; to the Committee on the Judiciary.

EC–5680. A communication from the Secretary of Veterans Affairs, transmitting, a draft bill intended to improve veterans' health care benefits; to the Committee on Veterans' Affairs.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. INOUYE, from the Committee on Commerce, Science, and Transportation, with an amendment in the nature of a substitute:

S. 357. A bill to improve passenger automobile fuel economy and safety, reduce greenhouse gas emissions, reduce dependence on foreign oil, and for other purposes (Rept. No. 110–278).

By Mr. LIEBERMAN, from the Committee on Homeland Security and Governmental Affairs, with an amendment in the nature of a substitute:

S. 1667. A bill to establish a pilot program for the expedited disposal of Federal real property (Rept. No. 110–279).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. DEMINT:

S. 2823. A bill to empower States with authority for most taxing and spending for highway programs and mass transit programs, and for other purposes; to the Committee on Finance.

By Mr. ROCKEFELLER (for himself, Mr. WEBB, Mr. BROWN, and Ms. MIKULSKI):

S. 2824. A bill to amend title 38, United States Code, to improve the collective bargaining rights and procedures for review of adverse actions of certain employees of the Department of Veterans Affairs, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. AKAKA:

S. 2825. A bill to amend title 38, United States Code, to provide a minimum disability rating for veterans receiving medical treatment for a service-connected disability; to the Committee on Veterans' Affairs.

By Ms. LANDRIEU:

S. 2826. A bill to establish the 8/29 Investigation Team to examine the events beginning on August 29, 2005, with respect to the failure of the flood protection system in response to Hurricanes Katrina and Rita, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

By Mr. INHOFE:

S. 2827. A bill to repeal a requirement with respect to the procurement and acquisition of alternative fuels; to the Committee on Energy and Natural Resources.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mrs. FEINSTEIN (for herself, Mr. SMITH, Mr. BIDEN, Ms. KLOBUCHAR, Mr. BROWN, Mrs. DOLE, Ms. CANTWELL, Ms. SNOWE, Mr. MENENDEZ, Ms. COLLINS, Mr. OBAMA, Mr. BYRD, Mr. VOINOVICH, Mr. SCHUMER, and Mrs. MURRAY):

S. Res. 504. A resolution condemning the violence in Tibet and calling for restraint by the Government of the People's Republic of China and the people of Tibet; to the Committee on Foreign Relations.

ADDITIONAL COSPONSORS

S. 22

At the request of Mr. WEBB, the name of the Senator from Missouri (Mr. BOND) was added as a cosponsor of S. 22, a bill to amend title 38, United States Code, to establish a program of educational assistance for members of the Armed Forces who serve in the Armed Forces after September 11, 2001, and for other purposes.

S. 450

At the request of Mr. ENSIGN, the name of the Senator from Rhode Island (Mr. WHITEHOUSE) was added as a cosponsor of S. 450, a bill to amend title XVIII of the Social Security Act to repeal the medicare outpatient rehabilitation therapy caps.

S. 582

At the request of Mr. SMITH, the name of the Senator from North Carolina (Mrs. DOLE) was added as a cosponsor of S. 582, a bill to amend the Internal Revenue Code of 1986 to classify automatic fire sprinkler systems as 5-year property for purposes of depreciation.

S. 616

At the request of Ms. COLLINS, the names of the Senator from Minnesota (Mr. COLEMAN) and the Senator from Washington (Mrs. MURRAY) were added as cosponsors of S. 616, a bill to promote health care coverage parity for individuals participating in legal recreational activities or legal transportation activities.

S. 789

At the request of Mr. GRASSLEY, the name of the Senator from Michigan (Mr. LEVIN) was added as a cosponsor of S. 789, a bill to prevent abuse of Government credit cards.

S. 843

At the request of Ms. COLLINS, the name of the Senator from Alaska (Ms. MURKOWSKI) was added as a cosponsor of S. 843, a bill to provide for the establishment of a national mercury monitoring program.

S. 881

At the request of Mrs. LINCOLN, the name of the Senator from Florida (Mr. NELSON) was added as a cosponsor of S. 881, a bill to amend the Internal Revenue Code of 1986 to extend and modify the railroad track maintenance credit.

S. 1130

At the request of Mrs. LINCOLN, the name of the Senator from Montana (Mr. TESTER) was added as a cosponsor of S. 1130, a bill to amend the Internal Revenue Code of 1986 to restore, increase, and make permanent the exclusion from gross income for amounts received under qualified group legal services plans.

S. 1675

At the request of Ms. CANTWELL, the name of the Senator from New York (Mrs. CLINTON) was added as a cosponsor of S. 1675, a bill to implement the recommendations of the Federal Communications Commission report to the Congress regarding low-power FM service.

S. 1738

At the request of Mr. BIDEN, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of S. 1738, a bill to establish a Special Counsel for Child Exploitation Prevention and Interdiction within the Office of the Deputy Attorney General, to improve the Internet Crimes Against Children Task Force, to increase resources for regional computer forensic labs, and to make other improvements to increase the ability of law enforcement agencies to investigate and prosecute predators.

S. 1888

At the request of Mrs. CLINTON, the name of the Senator from Pennsylvania (Mr. CASEY) was added as a cosponsor of S. 1888, a bill to amend title 4, United States Code, to add National Korean War Veterans Armistice Day to the list of days on which the flag should especially be displayed.

S. 1995

At the request of Mr. SALAZAR, the name of the Senator from Louisiana (Mr. VITTER) was added as a cosponsor of S. 1995, a bill to amend the Internal Revenue Code of 1986 to reduce the tax on beer to its pre-1991 level.

S. 2002

At the request of Mr. HATCH, the name of the Senator from Kansas (Mr. ROBERTS) was added as a cosponsor of S. 2002, a bill to amend the Internal Revenue Code of 1986 to simplify certain provisions applicable to real estate investment trusts, and for other purposes.

S. 2035

At the request of Mr. SPECTER, the name of the Senator from Minnesota (Ms. KLOBUCHAR) was added as a cosponsor of S. 2035, a bill to maintain the free flow of information to the public by providing conditions for the federally compelled disclosure of information by certain persons connected with the news media.

S. 2238

At the request of Mr. AKAKA, the name of the Senator from Virginia (Mr. WEBB) was added as a cosponsor of S. 2238, a bill to amend the National Dam Safety Program Act to establish a program to provide grant assistance to States for the rehabilitation and repair of deficient dams.

S. 2510

At the request of Mr. ISAKSON, the name of the Senator from Michigan

(Ms. STABENOW) was added as a cosponsor of S. 2510, a bill to amend the Public Health Service Act to provide revised standards for quality assurance in screening and evaluation of gynecologic cytology preparations, and for other purposes.

S. 2576

At the request of Mr. CRAPO, the names of the Senator from Maine (Ms. SNOWE) and the Senator from Washington (Ms. CANTWELL) were added as cosponsors of S. 2576, a bill to amend the Internal Revenue Code of 1986 to allow a credit for qualified expenditures paid or incurred to replace certain wood stoves.

S. 2579

At the request of Mr. INOUYE, the names of the Senator from South Dakota (Mr. JOHNSON), the Senator from New York (Mrs. CLINTON), the Senator from Alabama (Mr. SESSIONS), the Senator from Alaska (Mr. STEVENS) and the Senator from Virginia (Mr. WARNER) were added as cosponsors of S. 2579, a bill to require the Secretary of the Treasury to mint coins in recognition and celebration of the establishment of the United States Army in 1775, to honor the American soldier of both today and yesterday, in wartime and in peace, and to commemorate the traditions, history, and heritage of the United States Army and its role in American society, from the colonial period to today.

S. 2619

At the request of Mr. COBURN, the name of the Senator from Nevada (Mr. ENSIGN) was added as a cosponsor of S. 2619, a bill to protect innocent Americans from violent crime in national parks.

S. 2639

At the request of Mr. JOHNSON, the name of the Senator from Montana (Mr. BAUCUS) was added as a cosponsor of S. 2639, a bill to amend title 38, United States Code, to provide for an assured adequate level of funding for veterans health care.

S. 2690

At the request of Mr. BROWNBACK, the name of the Senator from Pennsylvania (Mr. SPECTER) was added as a cosponsor of S. 2690, a bill to authorize the placement in Arlington National Cemetery of an American Braille tactile flag in Arlington National Cemetery honoring blind members of the Armed Forces, veterans, and other Americans.

S. 2755

At the request of Mrs. MURRAY, the name of the Senator from Maryland (Mr. CARDIN) was added as a cosponsor of S. 2755, a bill to provide funding for summer youth jobs.

S. 2766

At the request of Mr. NELSON of Florida, the names of the Senator from Michigan (Mr. LEVIN) and the Senator from Ohio (Mr. VOINOVICH) were added as cosponsors of S. 2766, a bill to amend the Federal Water Pollution Control Act to address certain discharges incidental to the normal operation of a recreational vessel.

S. 2771

At the request of Ms. LANDRIEU, the name of the Senator from Maryland (Mr. CARDIN) was added as a cosponsor of S. 2771, a bill to require the president to call a White House Conference on Children and Youth in 2010.

S. 2799

At the request of Mrs. MURRAY, the name of the Senator from Maryland (Ms. MIKULSKI) was added as a cosponsor of S. 2799, a bill to amend title 38, United States Code, to expand and improve health care services available to women veterans, especially those serving in Operation Iraqi Freedom and Operation Enduring Freedom, from the Department of Veterans Affairs, and for other purposes.

S. 2819

At the request of Mr. ROCKEFELLER, the names of the Senator from Massachusetts (Mr. KERRY), the Senator from Washington (Ms. CANTWELL), the Senator from New Jersey (Mr. LAUTENBERG), the Senator from Ohio (Mr. BROWN) and the Senator from New Jersey (Mr. MENENDEZ) were added as cosponsors of S. 2819, a bill to preserve access to Medicaid and the State Children's Health Insurance Program during an economic downturn, and for other purposes.

S. 2821

At the request of Ms. CANTWELL, the names of the Senator from Connecticut (Mr. LIEBERMAN), the Senator from New Jersey (Mr. LAUTENBERG), the Senator from Indiana (Mr. BAYH), the Senator from Washington (Mrs. MURRAY) and the Senator from Michigan (Mr. LEVIN) were added as cosponsors of S. 2821, a bill to amend the Internal Revenue Code of 1986 to provide for the limited continuation of clean energy production incentives and incentives to improve energy efficiency in order to prevent a downturn in these sectors that would result from a lapse in the tax law.

S. RES. 468

At the request of Mrs. CLINTON, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. Res. 468, a resolution designating April 2008 as ''National 9-1-1 Education Month''.

AMENDMENT NO. 4384

At the request of Mr. SANDERS, the names of the Senator from Washington (Ms. CANTWELL) and the Senator from New Hampshire (Mr. SUNUNU) were added as cosponsors of amendment No. 4384 proposed to H.R. 3221, moving the United States toward greater energy independence and security, developing innovative new technologies, reducing carbon emissions, creating green jobs, protecting consumers, increasing clean renewable energy production, and modernizing our energy infrastructure, and to amend the Internal Revenue Code of 1986 to provide tax incentives for the production of renewable energy and energy conservation.

AMENDMENT NO. 4419

At the request of Mr. ENSIGN, the names of the Senator from New Mexico (Mr. DOMENICI), the Senator from Alaska (Mr. STEVENS), the Senator from Maine (Ms. COLLINS) and the Senator from Minnesota (Mr. COLEMAN) were added as cosponsors of amendment No. 4419 proposed to H.R. 3221, moving the United States toward greater energy independence and security, developing innovative new technologies, reducing carbon emissions, creating green jobs, protecting consumers, increasing clean renewable energy production, and modernizing our energy infrastructure, and to amend the Internal Revenue Code of 1986 to provide tax incentives for the production of renewable energy and energy conservation.

AMENDMENT NO. 4421

At the request of Mr. CARDIN, the name of the Senator from Minnesota (Ms. KLOBUCHAR) was added as a cosponsor of amendment No. 4421 proposed to H.R. 3221, moving the United States toward greater energy independence and security, developing innovative new technologies, reducing carbon emissions, creating green jobs, protecting consumers, increasing clean renewable energy production, and modernizing our energy infrastructure, and to amend the Internal Revenue Code of 1986 to provide tax incentives for the production of renewable energy and energy conservation.

AMENDMENT NO. 4426

At the request of Mr. MARTINEZ, the names of the Senator from New York (Mr. SCHUMER), the Senator from North Carolina (Mrs. DOLE) and the Senator from Arizona (Mr. KYL) were added as cosponsors of amendment No. 4426 intended to be proposed to H.R. 3221, moving the United States toward greater energy independence and security, developing innovative new technologies, reducing carbon emissions, creating green jobs, protecting consumers, increasing clean renewable energy production, and modernizing our energy infrastructure, and to amend the Internal Revenue Code of 1986 to provide tax incentives for the production of renewable energy and energy conservation.

AMENDMENT NO. 4427

At the request of Mr. ISAKSON, the name of the Senator from Tennessee (Mr. ALEXANDER) was added as a cosponsor of amendment No. 4427 intended to be proposed to H.R. 3221, moving the United States toward greater energy independence and security, developing innovative new technologies, reducing carbon emissions, creating green jobs, protecting consumers, increasing clean renewable energy production, and modernizing our energy infrastructure, and to amend the Internal Revenue Code of 1986 to provide tax incentives for the production of renewable energy and energy conservation.

AMENDMENT NO. 4433

At the request of Ms. SNOWE, the names of the Senator from New Mexico

(Mr. BINGAMAN) and the Senator from New Hampshire (Mr. SUNUNU) were added as cosponsors of amendment No. 4433 proposed to H.R. 3221, moving the United States toward greater energy independence and security, developing innovative new technologies, reducing carbon emissions, creating green jobs, protecting consumers, increasing clean renewable energy production, and modernizing our energy infrastructure, and to amend the Internal Revenue Code of 1986 to provide tax incentives for the production of renewable energy and energy conservation.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. ROCKEFELLER (for himself, Mr. WEBB, Mr. BROWN, and Ms. MILKULSKI):

S. 2824. A bill to amend title 38, United States Code, to improve the collective bargaining rights and procedures for review of adverse actions of certain employees of the Department of Veterans Affairs, and for other purposes; to the Committee on Veterans' Affairs.

Mr. ROCKEFELLER. Mr. President, I rise today to introduce legislation designed to fix the personnel laws that cover the Department of Veterans Affairs, VA, health care professionals, including registered nurses, physicians, physician assistants, dentists, podiatrists, optometrists, and dental assistants. I am proud to have the support of my colleagues, Senators WEBB, BROWN and MIKULSKI. This legislation is the companion bill to the pending House bill sponsored by House Veterans' Affairs Chairman, Congressman BOB FILNER.

Our goal is to support the VA health care professionals who work hard to provide quality care to our veterans. The bill seeks to return to the partnership agreement of the 1990s between VA management and workforce. Flexible scheduling and basic fairness from management are key issues to recruit and retain a strong workforce.

Almost 22,000 of the registered nurse caring for our veterans will be eligible to retire by 2010. Even more stunning is that 77 percent of all resignations of nurses occur within the first 5 years. This is a clear signal that more must be done to retain VA nurses and quality health care staff. Anyone involved in health care understands the important role that nurses play in the quality of care and patient satisfaction.

The VA has several options. VA could invest more of its precious, limited funding on contract care—or, as we recommend, support this legislation and restore the partnership that will encourage our nurses and other health care professionals to stay in the VA system to care for our Nation's heroes.

West Virginia has four VA Medical Centers, each with a dedicated team of health care professionals. I have met with the nurses and other professionals to hear their requests for flexible scheduling. I believe that we should restore the management partnership and work hard to retain our dedicated team of health professionals for our aging veterans, and those newly returning from Iraq and Afghanistan with both physical and mental wounds of war that deserved experienced VA care.

By Mr. AKAKA:

S. 2825. A bill to amend title 38, United States Code, to provide a minimum disability rating for veterans receiving medical treatment for a service-connected disability; to the Committee on Veterans' Affairs.

Mr. AKAKA. Mr. President, today I introduce the Veterans' Compensation Equity Act of 2008. This legislation would mandate fair and equitable ratings for veterans whose disabilities require continuous medication or the use of adaptive devices, such as hearing aids.

Specifically, the bill would require that all veterans who receive continuous medication or require use of one or more adaptive devices, such as hearing aids, prescribed by the Department of Veterans Affairs or other licensed health care provider for treatment of a service-connected disability, shall be rated at not less than 10 percent.

The amount of compensation veterans with service-connected conditions receive is based on a disability rating, which VA assigns. VA uses its rating schedule to determine which rating to assign to a veteran's particular condition. Currently the rating schedule provides a minimum compensable rating of 10 percent or higher for most but not all disabilities that require continuous medication. I do not see any reason why one veteran who requires continuous medication for treatment of a service-connected disability, such as diabetes or asthma, should receive a compensable rating and another veteran who requires continuous medication for treatment of another disability, such as hypertension or chronic sinusitis, is assigned a zero percent rating and receives no compensation.

This legislation would also provide a minimum compensable rating when a veteran requires the use of a hearing aid or other adaptive device, but is nonetheless assigned a noncompensable rating under the current rating schedule. The use of adaptive devices prescribed by a Department of Veterans Affairs or other licensed health care provider for treatment of a service-connected condition would result in a rating of at least 10 percent.

It is important that veterans who are disabled as a result of military service are compensated in a fair and equitable manner. Providing different compensation for different medical conditions that all require continuous medication or adaptive devices is not just.

I urge all of my colleagues to support this measure, so that veterans seeking compensation will be treated in a fair and equitable manner.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 2825

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Veterans' Compensation Equity Act of 2008''.

SEC. 2. MINIMUM DISABILITY RATING FOR VETERANS RECEIVING CERTAIN MEDICAL TREATMENT FOR A SERVICE-CONNECTED DISABILITY.

Section 1155 of title 38, United States Code, is amended by inserting after the third sentence the following new sentence: ''For each veteran requiring continuous medication or the use of one or more adaptive devices, such as a hearing aid, prescribed by the Department or other licensed health care provider for treatment of a service-connected disability, the Secretary shall assign a disability rating for such disability of not less than 10 percent.''.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 504—CONDEMNING THE VIOLENCE IN TIBET AND CALLING FOR RESTRAINT BY THE GOVERNMENT OF THE PEOPLE'S REPUBLIC OF CHINA AND THE PEOPLE OF TIBET

Mrs. FEINSTEIN (for herself, Mr. SMITH, Mr. BIDEN, Ms. KLOBUCHAR, Mr. BROWN, Mrs. DOLE, Ms. CANTWELL, Ms. SNOWE, Mr. MENENDEZ, Ms. COLLINS, Mr. OBAMA, Mr. BYRD, Mr. VOINOVICH, Mr. SCHUMER, and Mrs. MURRAY) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 504

Whereas, beginning on March 10, 2008, Tibetans and Tibetan Buddhist monks began demonstrations in Lhasa, the capital of the Tibet Autonomous Region in the People's Republic of China;

Whereas those protests spread to elsewhere in the Tibet Autonomous Region and to Tibetan autonomous areas in the Sichuan, Gansu, and Qinghan provinces of China;

Whereas, long-suppressed resentment prompted violent clashes between demonstrators and government forces in the streets of Lhasa, resulting in innocent civilian casualties, the burning of buildings, and extensive property damage;

Whereas Chinese and Tibetan sources report dozens of fatalities, and the arrest of more than 1,000 protesters in the Tibet Autonomous Region and surrounding Tibetan areas of China;

Whereas Tibet is the center of Tibetan Buddhism and the Dalai Lama is the most revered figure in Tibetan Buddhism;

Whereas, the Government of China continues to restrict the rights of Tibetan Buddhists to practice their religion freely;

Whereas the Dalai Lama has condemned the violence that began on March 14, 2008, and announced his continuing support for the Olympic Games to be held in Beijing, China;

Whereas the Dalai Lama has specifically stated that he does not seek independence for Tibet from China and has called for negotiations to bring about meaningful autonomy for Tibet that allows Tibetans to maintain their distinctive identity within China;

Whereas the Constitution of the People's Republic of China guarantees freedom of religious belief for all citizens, but the 2007 Annual Report on International Religious Freedom of the Department of State states that ''[d]uring the period covered by this report, the Government [of China]'s respect for freedom of religion remained poor''; and

Whereas, following the demonstrations that began on March 10, 2008, the Government of China began severely restricting access to journalists and diplomats and creating a shortage of independent verification of the situation on the ground in Tibet: Now, therefore, be it

Resolved, That the Senate—

(1) condemns the violence in Tibet and calls for restraint by the Government of the People's Republic of China and the people of Tibet;

(2) calls for a dialogue between the leadership of the Government of China and His Holiness the Dalai Lama on meaningful religious and cultural autonomy for Tibet within China and urges that these discussions take place with all deliberate speed;

(3) calls for the release of individuals who protested in a peaceful manner and for medical care for those injured and wounded in the violence that followed the protests;

(4) calls on the Government of China to cease its efforts to enter monasteries to ''reeducate'' monks and nuns, to respect the right of the people of Tibet to speak of the Dalai Lama and possess his photograph, and to respect and protect basic human rights, as provided in the Constitution of the People's Republic of China;

(5) calls on the Government of China to honor its commitment to allow international journalists free access to China from mid-2007 to October 17, 2008;

(6) calls on the Government of China to provide a full accounting of the March 2008 protests in Tibet, the response of the Government of China, and the manner and number of detentions and deaths that occurred following the protests; and

(7) both—

(A) calls on the United States Department of State to fully implement the Tibetan Policy Act of 2002 (22 U.S.C. 6901 note), including the stipulation that the Secretary of State ''seek to establish an office in Lhasa, Tibet to monitor political, economic, and cultural developments in Tibet'', and also to provide consular protection and citizen services in emergencies, and

(B) urges that the agreement to permit China to open further diplomatic missions in the United States should be contingent upon the establishment of a United States Government office in Lhasa, Tibet.

Mrs. FEINSTEIN. Mr. President, at this time, I send a resolution to the desk. Perhaps, rather than do that, I should just speak about it and then introduce it separately.

This resolution is sent on behalf of Senator GORDON SMITH of Oregon and myself. It is also cosponsored by the chairman of the Foreign Relations Committee, Senator BIDEN, as well as Senators KLOBUCHAR, BROWN, CANTWELL, DOLE, OBAMA, SNOWE, MENENDEZ, VOINOVICH, SCHUMER, COLLINS, and BYRD. It deals with Tibet.

It deals with what is happening in Tibet. This is a very difficult week because the day after tomorrow the Olympic torch is coming for the first time to my city, San Francisco, the only city in the United States that the torch will come to. It has created quite a stir.

This resolution condemns the violence in Tibet, and it calls for restraint by the Government of the People's Republic of China and the people of Tibet. It does other things as well; that is, to urge the Government of China to sit down with His Holiness the Dalai Lama and try to work toward meaningful autonomy with respect to the culture and religion of the people of Tibet.

There is an area called the Tibetan Autonomous Region. It has 3 million Tibetans. There are also 3 million Tibetans in the three surrounding provinces of China.

Starting on March 10, Tibetan monks and others began protesting in the autonomous area of western China. The protests were begun peacefully by monks who marched in their robes and were an expression of these religious people's desire to practice their religion freely and without Government interference.

The protesters took this action at great personal risk. Many monks and marchers carried pictures of the Dalai Lama, the most revered figure in Tibetan Buddhism. Possession of such a picture is punished in China, sometimes severely.

Unfortunately and tragically, on March 14, the protests in Lhasa, the capital of the Tibetan Autonomous Region, turned violent. Long-suppressed animosity boiled over. Innocent people were killed in the violence. Homes and businesses were burned in what appears to have been a riot.

Over the days and weeks that followed, the protests spread. They occurred in 42 separate Chinese counties. Most were peaceful. In some cases, they were met, though, with brute force by Chinese police. This resolution condemns force on both sides. The Chinese Government responded to these protests with force and secrecy. The crackdown included thousands of paramilitary police and possibly the People's Liberation Army, who were sent to Tibet.

International journalists and official representatives were kept out, making accurate information difficult to obtain. But we know dozens of people or more have died. We know more than 1,000 people have been incarcerated.

Now, how did all this happen? Over the past decade, China has flooded the Tibetan Autonomous Region with Han Chinese. They have built a major railroad. Han Chinese have participated in a major building boom in the capital city of Lhasa. In fact, there are many more hotels and restaurants and businesses there today.

The majority of Tibetans who live in rural areas benefit very little from central government investment in this Tibetan economy. Instead, the money has flowed to government-run enterprises, in which Han control is dominant.

The Tibetans lack the skills to compete. According to the Chinese Government's 2000 census, the illiteracy rate of ethnic Tibetans in China is 48 percent; that is five times higher than the Chinese national illiteracy rate.

Instead of providing educational opportunity to Tibetans, China is currently advancing patriotic education in Tibet's monasteries. What this means is Chinese reeducation teams go into the monasteries and try to reeducate the Tibetan monks. If they do not agree to reeducation, they are often punished and often beaten. The bottom line is, few Tibetans are prepared to compete for employment and business opportunities in the Han-dominated economic environment.

I first went to China and was the first American mayor to do so in June of 1979. I went with a delegation of San Francisco businesspeople and civic activists to develop the first friendship city agreement between an American city and a Chinese city.

From that flowed an agreement which at one time was the most active sister city relationship in the world. That was between the great cities of Shanghai and San Francisco. The Chinese have always had a love of San Francisco; it goes back many decades into former centuries of Chinese coming to this country and landing in San Francisco first.

We developed that relationship and good things happened. The first Chinese Consulate came to San Francisco and an American Consulate was opened in Shanghai. The first COSCO ship came into San Francisco Bay. The first chartered air service landed at San Francisco International Airport. A special relationship was developed between Guangdong Province and San Francisco. The first Bank of China opened in this country and on and on and on with many interesting projects.

It turned out the mayor of Shanghai was, first, Wang Daohan and then Jiang Zemin. Jiang Zemin and I met over an ensuing 8-year period every year. He then went on to become Secretary General of the party and President of the country. In 1992, 1997, and 1998, I, personally, carried letters from the Dalai Lama to the President of China. In 1997 and 1998, I had long discussions with the President of China, President Jiang Zemin.

I would like, if I might, to read parts of these letters. The second letter is dated June 12, 1997. It is signed by His Holiness the Dalai Lama. Let me read this to you:

When I met Chairman Mao over forty years ago, I felt very assured by him and the other leaders of the new China. The promises made to me gave the people and government of Tibet considerable optimism and confidence. In the mid-1950s, when we were confronted with new crises, it was Premier Zhou En Lai who was able to play a crucial role in restoring my confidence; we met several times during my pilgrimage in India. Unfortunately, the situation in Tibet did not improve despite his best assurances and I ultimately had to go into exile.

Despite lost time and opportunities and the turmoil of the recent past, my hopes were renewed in 1979 when Mr. Deng Xiaoping took the initiative to contact me through my brother in Hong Kong, assuring me that short of our demand for separation from the People's Republic of China, all

problems could be discussed and resolved. It was a long overdue rapprochement, and within a few years were able to make considerable progress on several fronts.

Unfortunately, this initiative, started by Mr. Deng and vigorously carried out by Mr. Hu Yaobang, then Party General Secretary, came to a stuttering halt owing to events in Tibet and elsewhere in China that prevented its natural fruition.

Many of the issues are yet to be resolved, and Tibet now draws the concern of more than just the Tibetan people. The primary responsibility for resolving this matter lies with us, and I believe that now is an opportune moment to tackle these problems without prejudice. I have, for my part, openly and in confidence conveyed to you that I am not demanding independence for Tibet, which I believe is fundamental to the Chinese government.

I think the issue of Tibet has remained unresolved for too long and any further delay will only complicate the matter. I am also deeply concerned by the growing restlessness among the Tibetan people in recent times. I can fully understand their frustrations. But if a mutually agreeable solution is found, I am confident that I will be able to dispel the Tibetan people's concerns and win their support for my efforts.

It is signed, ''With my prayers, the Dalai Lama.''

I delivered this to Jiang Zemin, in China, on June 12, 1997. On May 16, 1998, the next year, I returned to China and I delivered another letter from His Holiness to Jiang Zemin. I would like to quote from that.

It is my fervent and sincere hope that you will provide similar leadership in resolving the Tibetan problem. If we look at the issue positively I really do not see major contradictions between our respective positions. If I understand correctly, the main concern of the Central leadership in China is the unity and stability of the nation. My middle-way approach for resolving the Tibetan issue will in fact contribute towards achieving the same objectives.

I would like to reiterate here that I am not seeking independence for Tibet. My main concern is for the six million Tibetan people (or whatever the actual figure is of people who consider themselves Tibetans) to be able to enjoy the opportunity to fully preserve their civilisation and the distinct Tibetan culture, religion, and language. I am convinced that this could be achieved through genuine autonomy or self-rule within the framework of the People's Republic of China. Such a situation will also make it possible for the Tibetan people to take full advantage of, and be an integral part of, the socio-economic development, which is taking place in China. It is needless to mention that a solution to the Tibetan problem will gain tremendous international respect for the People's Republic of China as well as for your leadership.

Mr. President, it has been four decades since I have had the opportunity to sit down personally with the leader of the Chinese people to have a frank and direct dialogue. With your leadership and initiative, I am confident that we can begin the process of resolving the many issues concerning Tibet. I believe that you are privileged to be leading the People's Republic of China at a unique time in history when it's economy is growing vigorously and when you are gaining a new respectability in the world.

It goes on.

May I suggest that at our meeting, you and I discuss relations between the Tibetans and the Chinese government. I am also concerned about the maintenance and enhancement of those cultural, civic, and religious institutions that are so important to the Tibetan people and others throughout the world. In addition, we should discuss the fact that economic growth in Tibet has not matched that of the rest of China, and we would be interested in talking about how we can work together towards poverty alleviation and educational and economic growth.

There are other parts to these letters. But I would ask that the full text be incorporated at this point in my remarks in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

JUNE 12, 1997.

DEAR MR. PRESIDENT: This letter comes to you through our mutual friends Mr. Richard Blum and Senator Dianne Feinstein. Unfortunately, it comes with a shared sense of deep concern, frustration, and great disappointment over the lack of any progress concerning the Tibetan situation.

When I met Chairman Mao over forty years ago, I felt very assured by him and the other leaders of the new China. The promises made to me gave the people and government of Tibet considerable optimism and confidence. In the mid–1950's, when we were confronted with new crises, it was Premier Zhou En Lai who was able to play a crucial role in reviving my confidence; we met several times during my pilgrimage in India. Unfortunately, the situation in Tibet did not improve despite his best assurances and I ultimately had to go into exile.

Despite lost time and opportunities and the turmoil of the recent past, my hopes were renewed in 1979 when Mr. Deng Xiaoping took the initiative to contact me through my brother in Hong Kong, assuring me that short of our demand for separation from the People's Republic of China, all problems could be discussed and resolved. It was a long overdue rapprochement, and within a few years were able to make considerable progress on several fronts.

Unfortunately, this initiative, started by Mr. Deng and vigorously carried out by Mr. Hu Yaobang, then Party General Secretary, came to a stuttering halt owing to events in Tibet and elsewhere in China that prevented its natural fruition.

Many of the issues are yet to be resolved, and Tibet now draws the concern of more than just the Tibetan people. The primary responsibility for resolving this matter lies with us, and I believe that now is an opportune moment to tackle these problems without prejudice. I have, for my part, openly and in confidence conveyed to you that I am not demanding independence for Tibet, which I believe is fundamental to the Chinese government.

I think the issue of Tibet has remained unresolved for too long and any further delay will only complicate the matter. I am also deeply concerned by the growing restlessness among the Tibetan people in recent times. I can fully understand their frustrations. But if a mutually agreeable solution is found, I am confident that I will be able to dispel the Tibetan people's concerns and win their support for my efforts .

I am sure there may be other issues on which clarifications may be needed from both sides in order to create the necessary congenial environment for formal negotiations. My assistants will continue to informally work with your people so that these issues can be clarified to a satisfactory conclusion candidly and in confidence.

With my prayers,

THE DALAI LAMA.

MAY 16, 1998.

His Excellency JIANG ZEMIN,
President of People's Republic of China, Beijing.

DEAR PRESIDENT JIANG ZEMIN: I have been closely watching the developments in the People's Republic of China under your leadership and applaud you particularly for the leadership that you have provided both during the 15th Party Congress as well as the National People's Congress session early this year. Under your core leadership China is moving in the right direction and it is my sincere hope that this process will continue in the years to come. I also commend you for the smooth transfer of power in Hong Kong and more importantly for the way the affairs of Hong Kong are handled currently.

It is my fervent and sincere hope that you will provide a similar leadership in resolving the Tibetan problem. If we look at the issue positively I really do not see major contradictions between our respective positions. If I understand correctly, the main concern of the Central leadership in China is the unity and stability of the nation. My middle-way approach for resolving the Tibetan issue will in fact contribute towards achieving the same objectives.

I would like to reiterate here that I am not seeking independence for Tibet. My main concern is for the six million Tibetan people (or whatever the actual figure is of people who consider themselves Tibetans) to be able to enjoy the opportunity to fully preserve their civilization and the distinct Tibetan culture, religion, and language. I am convinced that this could be achieved through genuine autonomy or self-rule within the framework of the People's Republic of China. Such a situation will also make it possible for the Tibetan people to take full advantage of, and be an integral part of, the socio-economic development, which is taking place in China. It is needless to mention that a solution to the Tibetan problem will gain tremendous international respect for the People's Republic of China as well as for your leadership.

Mr. President, it has been 4 decades since I have had the opportunity to sit down personally with the leader of the Chinese people to have a frank and direct dialogue. With your leadership and initiative, I am confident that we can begin the process of resolving the many issues concerning Tibet. I believe that you are privileged to be leading the People's Republic of China at a unique time in history when its economy is growing vigorously and when you are gaining a new respectability in the world.

May I suggest that at our meeting, you and I discuss relations between the Tibetans and the Chinese government. I am also concerned about the maintenance and enhancement of those cultural, civic, and religious institutions that are so important to the Tibetan People and others throughout the world. In addition, we should discuss the fact that economic growth in Tibet has not matched that of the rest of China, and we would be interested in talking about how we can work together towards poverty alleviation and educational and economic growth.

I have been often told by our good friends Mr. Richard Blum and Senator Dianne Feinstein, and others, that a meeting between you and me could make important progress in a relatively short period of time on the aforementioned and other pertinent issues.

In this context, I would hope that it would be possible for you and me to be able to meet face to face some time in the near future. I look forward to your reply.

Sincerely,

THE DALAI LAMA.

Mrs. FEINSTEIN. This was 1998. It is now 10 years later. And no discussion. I

have tried my level best but no discussion, no ability for the leader of 6 million people, part of China, to be able to sit down and discuss them.

So the events over the last month have been tragic. But if I think of the frustration that has built up over 40 years, of a leader who has renounced violence, who has proposed a middle way, it is shocking to me.

Since 2002, six sets of talks have occurred between the Dalai Lama's representative, namely his special envoy, Lodi Gyari, and the United Front Work Department of the Communist Party of China, but no progress has resulted.

Now, to bring this issue to a settlement, the leaders must be involved. I deeply believe it is in the interests of both the Chinese Government and the Tibetan people for the leaders to sit down and negotiate how to bring about meaningful cultural and religious autonomy for the Tibetan people and faith.

This is essentially what this resolution attempts to do in a constructive way. I know we called Senator SMITH. I hoped he would be here. But the floor opened up and I decided to take the opportunity to speak briefly about our resolution. We have worked with the chairman of the Foreign Relations Committee, with other Senators as well. I believe this resolution sets forward in positive terms our concern about what is happening with Tibet and with China. I certainly remain open to trying to help in any way I possibly can to bring the two sides together. I know the frustration I feel, having tried 10 years ago, 11 years ago, 12 years ago, carrying letters from the Dalai Lama and then, in virtually every conversation I have had with Chinese leadership since; it has all come to naught.

What is happening is there is a newer, younger group of Tibetans who see the large Tibetan community in exile in Dharamsala who say the Dalai Lama, in pursuing this middle way, hasn't achieved anything, and therefore we have to take to the streets and we have to show that the Communists in China must sit down with us and must talk with us. I believe that is the scenario playing out in many provinces and all over the world today.

It can all be stopped by a different kind of scenario. That is one that recognizes that the Dalai Lama, a historic and well-respected religious leader, should be able to sit down with the leadership of China and discuss the problem and come up with a mechanism that can provide for the cultural and religious autonomy of the people both in the Tibetan autonomous area, as well as in the three surrounding provinces.

I hope this resolution will be heard, and I hope we will pass it shortly. If there is no objection, I send the resolution to the desk at this time.

The PRESIDING OFFICER. The resolution will be received and referred appropriately.

AMENDMENTS SUBMITTED AND PROPOSED

SA 4438. Mrs. LINCOLN (for herself and Mr. SMITH) submitted an amendment intended to be proposed to amendment SA 4387 submitted by Mr. DODD (for himself and Mr. SHELBY) to the bill H.R. 3221, moving the United States toward greater energy independence and security, developing innovative new technologies, reducing carbon emissions, creating green jobs, protecting consumers, increasing clean renewable energy production, and modernizing our energy infrastructure, and to amend the Internal Revenue Code of 1986 to provide tax incentives for the production of renewable energy and energy conservation; which was ordered to lie on the table.

SA 4439. Mrs. LINCOLN submitted an amendment intended to be proposed to amendment SA 4387 submitted by Mr. DODD (for himself and Mr. SHELBY) to the bill H.R. 3221, supra; which was ordered to lie on the table.

SA 4440. Mr. NELSON, of Nebraska submitted an amendment intended to be proposed to amendment SA 4387 submitted by Mr. DODD (for himself and Mr. SHELBY) to the bill H.R. 3221, supra; which was ordered to lie on the table.

SA 4441. Mr. REID (for Mr. OBAMA) submitted an amendment intended to be proposed by Mr. REID to the bill H.R. 3221, supra; which was ordered to lie on the table.

SA 4442. Mr. REID (for Mr. OBAMA) submitted an amendment intended to be proposed by Mr. REID to the bill H.R. 3221, supra; which was ordered to lie on the table.

SA 4443. Mrs. LINCOLN (for herself and Mr. SMITH) submitted an amendment intended to be proposed by her to the bill H.R. 3221, supra; which was ordered to lie on the table.

SA 4444. Mrs. BOXER submitted an amendment intended to be proposed by her to the bill H.R. 3221, supra; which was ordered to lie on the table.

SA 4445. Mrs. BOXER submitted an amendment intended to be proposed by her to the bill H.R. 3221, supra; which was ordered to lie on the table.

SA 4446. Mr. LEAHY (for himself and Mr. SANDERS) submitted an amendment intended to be proposed by him to the bill H.R. 3221, supra; which was ordered to lie on the table.

SA 4447. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill H.R. 3221, supra; which was ordered to lie on the table.

SA 4448. Ms. LANDRIEU submitted an amendment intended to be proposed to amendment SA 4387 submitted by Mr. DODD (for himself and Mr. SHELBY) to the bill H.R. 3221, supra; which was ordered to lie on the table.

SA 4449. Mr. ENSIGN submitted an amendment intended to be proposed by him to the bill H.R. 3221, supra; which was ordered to lie on the table.

SA 4450. Mr. ENSIGN submitted an amendment intended to be proposed to amendment SA 4387 submitted by Mr. DODD (for himself and Mr. SHELBY) to the bill H.R. 3221, supra; which was ordered to lie on the table.

SA 4451. Mr. ENSIGN submitted an amendment intended to be proposed to amendment SA 4387 submitted by Mr. DODD (for himself and Mr. SHELBY) to the bill H.R. 3221, supra; which was ordered to lie on the table.

SA 4452. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill H.R. 3221, supra; which was ordered to lie on the table.

SA 4453. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill H.R. 3221, supra; which was ordered to lie on the table.

SA 4454. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill H.R. 3221, supra; which was ordered to lie on the table.

SA 4455. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill H.R. 3221, supra; which was ordered to lie on the table.

SA 4456. Mr. GREGG submitted an amendment intended to be proposed by him to the bill H.R. 3221, supra; which was ordered to lie on the table.

SA 4457. Mr. GREGG submitted an amendment intended to be proposed to amendment SA 4387 submitted by Mr. DODD (for himself and Mr. SHELBY) to the bill H.R. 3221, supra; which was ordered to lie on the table.

SA 4458. Mr. GREGG submitted an amendment intended to be proposed by him to the bill H.R. 3221, supra; which was ordered to lie on the table.

SA 4459. Mr. GREGG submitted an amendment intended to be proposed by him to the bill H.R. 3221, supra; which was ordered to lie on the table.

SA 4460. Mr. SPECTER (for himself and Mr. CASEY) submitted an amendment intended to be proposed by him to the bill H.R. 3221, supra; which was ordered to lie on the table.

SA 4461. Mr. CASEY (for himself and Mr. MARTINEZ) submitted an amendment intended to be proposed by him to the bill H.R. 3221, supra; which was ordered to lie on the table.

SA 4462. Mr. KERRY (for himself, Mr. GRASSLEY, Mrs. BOXER, and Ms. CANTWELL) submitted an amendment intended to be proposed to amendment SA 4387 submitted by Mr. DODD (for himself and Mr. SHELBY) to the bill H.R. 3221, supra; which was ordered to lie on the table.

SA 4463. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill H.R. 3221, supra; which was ordered to lie on the table.

SA 4464. Mr. CRAPO (for himself and Mr. JOHNSON) submitted an amendment intended to be proposed by him to the bill H.R. 3221, supra; which was ordered to lie on the table.

SA 4465. Mr. VITTER (for himself and Mr. INHOFE) submitted an amendment intended to be proposed by him to the bill H.R. 3221, supra; which was ordered to lie on the table.

SA 4466. Mr. VITTER (for himself and Mr. INHOFE) submitted an amendment intended to be proposed by him to the bill H.R. 3221, supra; which was ordered to lie on the table.

SA 4467. Mr. ENSIGN submitted an amendment intended to be proposed by him to the bill H.R. 3221, supra; which was ordered to lie on the table.

SA 4468. Mr. KYL submitted an amendment intended to be proposed by him to the bill H.R. 3221, supra; which was ordered to lie on the table .

SA 4469. Mr. KYL submitted an amendment intended to be proposed by him to the bill H.R. 3221, supra; which was ordered to lie on the table .

SA 4470. Mrs. FEINSTEIN (for herself, Mr. MARTINEZ, Mrs. BOXER, Mr. OBAMA, Mrs. DOLE, Mr. DURBIN, Mr. SALAZAR, Mrs. CLINTON, Ms. KLOBUCHAR, and Ms. MIKULSKI) submitted an amendment intended to be proposed by her to the bill H.R. 3221, supra; which was ordered to lie on the table.

SA 4471. Mr. KOHL (for himself and Mrs. LINCOLN) submitted an amendment intended to be proposed by him to the bill H.R. 3221, supra; which was ordered to lie on the table.

SA 4472. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill H.R. 3221, supra; which was ordered to lie on the table.

SA 4473. Mr. DEMINT submitted an amendment intended to be proposed by him to the bill H.R. 3221, supra; which was ordered to lie on the table.

SA 4474. Mr. DEMINT submitted an amendment intended to be proposed by him to the

bill H.R. 3221, supra; which was ordered to lie on the table.

SA 4475. Mr. DEMINT submitted an amendment intended to be proposed by him to the bill H.R. 3221, supra; which was ordered to lie on the table.

SA 4476. Mr. DEMINT submitted an amendment intended to be proposed by him to the bill H.R. 3221, supra; which was ordered to lie on the table.

SA 4477. Mrs. MURRAY (for herself, Mr. SCHUMER, Mr. CASEY, and Mr. BROWN) submitted an amendment intended to be proposed by her to the bill H.R. 3221, supra; which was ordered to lie on the table.

SA 4478. Mrs. MURRAY (for herself, Mr. SCHUMER, Mr. CASEY, and Mr. BROWN) submitted an amendment intended to be proposed to amendment SA 4387 submitted by Mr. DODD (for himself and Mr. SHELBY) to the bill H.R. 3221, supra.

SA 4479. Mrs. MURRAY (for herself and Mr. SCHUMER) submitted an amendment intended to be proposed by her to the bill H.R. 3221, supra; which was ordered to lie on the table.

SA 4480. Mr. CARPER (for himself and Mr. CRAPO) submitted an amendment intended to be proposed by him to the bill H.R. 3221, supra; which was ordered to lie on the table.

SA 4481. Mr. BAUCUS (for himself, Ms. SNOWE, and Mr. WHITEHOUSE) submitted an amendment intended to be proposed by him to the bill H.R. 3221, supra; which was ordered to lie on the table.

SA 4482. Ms. MIKULSKI submitted an amendment intended to be proposed by her to the bill H.R. 3221, supra; which was ordered to lie on the table.

SA 4483. Mr. CORNYN submitted an amendment intended to be proposed by him to the bill H.R. 3221, supra; which was ordered to lie on the table.

SA 4484. Mr. CORNYN submitted an amendment intended to be proposed by him to the bill H.R. 3221, supra; which was ordered to lie on the table.

SA 4485. Mr. SANDERS submitted an amendment intended to be proposed by him to the bill H.R. 3221, supra; which was ordered to lie on the table.

SA 4486. Ms. SNOWE submitted an amendment intended to be proposed by her to the bill H.R. 3221, supra; which was ordered to lie on the table.

SA 4487. Mr. DORGAN submitted an amendment intended to be proposed to amendment SA 4387 submitted by Mr. DODD (for himself and Mr. SHELBY) to the bill H.R. 3221, supra; which was ordered to lie on the table.

SA 4488. Mrs. MCCASKILL submitted an amendment intended to be proposed by her to the bill H.R. 3221, supra; which was ordered to lie on the table.

SA 4489. Mrs. MCCASKILL submitted an amendment intended to be proposed by her to the bill H.R. 3221, supra; which was ordered to lie on the table.

SA 4490. Mr. HAGEL (for himself and Mr. SUNUNU) submitted an amendment intended to be proposed by him to the bill H.R. 3221, supra; which was ordered to lie on the table.

SA 4491. Mr. GRASSLEY submitted an amendment intended to be proposed to amendment SA 4387 submitted by Mr. DODD (for himself and Mr. SHELBY) to the bill H.R. 3221, supra; which was ordered to lie on the table.

SA 4492. Mr. REID (for Mrs. CLINTON) submitted an amendment intended to be proposed by Mr. Reid to the bill H.R. 3221, supra; which was ordered to lie on the table.

SA 4493. Mr. BUNNING (for himself and Ms. STABENOW) submitted an amendment intended to be proposed to amendment SA 4387 submitted by Mr. DODD (for himself and Mr. SHELBY) to the bill H.R. 3221, supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 4438. Mrs. LINCOLN (for herself and Mr. SMITH) submitted an amendment intended to be proposed to amendment SA 4387 submitted by Mr. DODD (for himself and Mr. SHELBY) to the bill H.R. 3221, moving the United States toward greater energy independence and security, developing innovative new technologies, reducing carbon emissions, creating green jobs, protecting consumers, increasing clean renewable energy production, and modernizing our energy infrastructure, and to amend the Internal Revenue Code of 1986 to provide tax incentives for the production of renewable energy and energy conservation; which was ordered to lie on the table; as follows:

On page 82, between lines 7 and 8, insert the following:

TITLE VII—TIMBER PROVISIONS

SEC. 700. AMENDMENTS TO 1986 CODE.

Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

SEC. 701. DEDUCTION FOR QUALIFIED TIMBER GAIN.

(a) IN GENERAL.—Part I of subchapter P of chapter 1 is amended by adding at the end the following new section:

"SEC. 1203. DEDUCTION FOR QUALIFIED TIMBER GAIN.

''(a) IN GENERAL.—In the case of a taxpayer which elects the application of this section for a taxable year, there shall be allowed a deduction against gross income in an amount equal to 60 percent of the lesser of—

''(1) the taxpayer's qualified timber gain for such year, or

''(2) the taxpayer's net capital gain for such year.

''(b) QUALIFIED TIMBER GAIN.—For purposes of this section, the term 'qualified timber gain' means, with respect to any taxpayer for any taxable year, the excess (if any) of—

''(1) the sum of the taxpayer's gains described in subsections (a) and (b) of section 631 for such year, over

''(2) the sum of the taxpayer's losses described in such subsections for such year.

''(c) SPECIAL RULES FOR PASS-THRU ENTITIES.—

''(1) In the case of any qualified timber gain of a pass-thru entity (as defined in section 1(h)(10)) other than a real estate investment trust, the election under this section shall be made separately by each taxpayer subject to tax on such gain.

''(2) In the case of any qualified timber gain of a real estate investment trust, the election under this section shall be made by the real estate investment trust.

''(d) ELECTION.—An election under this section may be made only with respect to the first taxable year beginning after the date of the enactment of this section.''.

(b) COORDINATION WITH MAXIMUM CAPITAL GAINS RATES.—

(1) TAXPAYERS OTHER THAN CORPORATIONS.—Paragraph (2) of section 1(h) is amended to read as follows:

''(2) REDUCTION OF NET CAPITAL GAIN.—For purposes of this subsection, the net capital gain for any taxable year shall be reduced (but not below zero) by the sum of—

''(A) the amount which the taxpayer takes into account as investment income under section 163(d)(4)(B)(iii), and

''(B) in the case of a taxable year with respect to which an election is in effect under section 1203, the lesser of—

''(i) the amount described in paragraph (1) of section 1203(a), or

''(ii) the amount described in paragraph (2) of such section.''.

(2) CORPORATIONS.—Section 1201 is amended by redesignating subsection (b) as subsection (c) and inserting after subsection (a) the following new subsection:

''(b) QUALIFIED TIMBER GAIN NOT TAKEN INTO ACCOUNT.—For purposes of this section, in the case of a corporation with respect to which an election is in effect under section 1203, the net capital gain for any taxable year shall be reduced (but not below zero) by the corporation's qualified timber gain (as defined in section 1203(b)).''.

(c) DEDUCTION ALLOWED WHETHER OR NOT INDIVIDUAL ITEMIZES OTHER DEDUCTIONS.—Subsection (a) of section 62 is amended by inserting before the last sentence the following new paragraph:

''(22) QUALIFIED TIMBER GAINS.—The deduction allowed by section 1203.''.

(d) DEDUCTION ALLOWED IN COMPUTING ADJUSTED CURRENT EARNINGS.—Subparagraph (C) of section 56(g)(4) is amended by adding at the end the following new clause:

''(vii) DEDUCTION FOR QUALIFIED TIMBER GAIN.—Clause (i) shall not apply to any deduction allowed under section 1203.''.

(e) DEDUCTION ALLOWED IN COMPUTING TAXABLE INCOME OF ELECTING SMALL BUSINESS TRUSTS.—Subparagraph (C) of section 641(c)(2) is amended by inserting after clause (iii) the following new clause:

''(iv) The deduction allowed under section 1203.''.

(f) TREATMENT OF QUALIFIED TIMBER GAIN OF REAL ESTATE INVESTMENT TRUSTS.—Paragraph (3) of section 857(b) is amended by inserting after subparagraph (F) the following new subparagraph:

''(G) TREATMENT OF QUALIFIED TIMBER GAIN.—For purposes of this part, in the case of a real estate investment trust with respect to which an election is in effect under section 1203—

''(i) REDUCTION OF NET CAPITAL GAIN.—The net capital gain of the real estate investment trust for any taxable year shall be reduced (but not below zero) by the real estate investment trust's qualified timber gain (as defined in section 1203(b)).

''(ii) ADJUSTMENT TO SHAREHOLDER'S BASIS ATTRIBUTABLE TO DEDUCTION FOR QUALIFIED TIMBER GAINS.—

''(I) IN GENERAL.—The adjusted basis of shares in the hands of the shareholder shall be increased by the amount of the deduction allowable under section 1203(a) as provided in subclauses (II) and (III).

''(II) ALLOCATION OF BASIS INCREASE FOR DISTRIBUTIONS MADE DURING TAXABLE YEAR.—For any taxable year of a real estate investment trust for which an election is in effect under section 1203, in the case of a distribution made with respect to shares during such taxable year of amounts attributable to the deduction allowable under section 1203(a), the adjusted basis of such shares shall be increased by the amount of such distributions.

''(III) ALLOCATION OF EXCESS.—If the deduction allowable under section 1203(a) for a taxable year exceeds the amount of distributions described in subclause (II), the excess shall be allocated to every shareholder of the real estate investment trust at the close of the trust's taxable year in the same manner as if a distribution of such excess were made with respect to such shares.

''(IV) DESIGNATIONS.—To the extent provided in regulations, a real estate investment trust shall designate the amounts described in subclauses (II) and (III) in a manner similar to the designations provided with respect to capital gains described in subparagraphs (C) and (D).

''(V) DEFINITIONS.—As used in this subparagraph, the terms 'share' and 'shareholder'

shall include beneficial interests and holders of beneficial interests, respectively.

''(iii) EARNINGS AND PROFITS DEDUCTION FOR QUALIFIED TIMBER GAINS.—The deduction allowable under section 1203(a) for a taxable year shall be allowed as a deduction in computing the earnings and profits of the real estate investment trust for such taxable year. The earnings and profits of any such shareholder which is a corporation shall be appropriately adjusted in accordance with regulations prescribed by the Secretary.''.

(g) LOSS ATTRIBUTABLE TO BASIS ADJUSTMENT FOR DEDUCTION FOR QUALIFIED TIMBER GAIN OF REAL ESTATE INVESTMENT TRUSTS.—

(1) Section 857(b)(8) is amended by redesignating subparagraphs (B) and (C) as subparagraphs (C) and (D), respectively, and by inserting after subparagraph (A) the following new subparagraph:

''(B) LOSS ATTRIBUTABLE TO BASIS ADJUSTMENT FOR DEDUCTION FOR QUALIFIED TIMBER GAIN.—If—

''(i) a shareholder of a real estate investment trust receives a basis adjustment provided under subsection (b)(3)(G)(ii), and

''(ii) the taxpayer has held such share or interest for 6 months or less,

then any loss on the sale or exchange of such share or interest shall, to the extent of the amount described in clause (i), be disallowed.''.

(2) Subparagraph (D) of section 857(b)(8), as redesignated by paragraph (1), is amended by striking ''subparagraph (A)'' and inserting ''subparagraphs (A) and (B)''.

(h) CONFORMING AMENDMENTS.—

(1) Subparagraph (B) of section 172(d)(2) is amended to read as follows:

''(B) the exclusion under section 1202, and the deduction under section 1203, shall not be allowed.''.

(2) Paragraph (4) of section 642(c) is amended by striking the first sentence and inserting ''To the extent that the amount otherwise allowable as a deduction under this subsection consists of gain described in section 1202(a) or qualified timber gain (as defined in section 1203(b)), proper adjustment shall be made for any exclusion allowable to the estate or trust under section 1202 and for any deduction allowable to the estate or trust under section 1203.''

(3) Paragraph (3) of section 643(a) is amended by striking the last sentence and inserting ''The exclusion under section 1202 and the deduction under section 1203 shall not be taken into account.''.

(4) Subparagraph (C) of section 643(a)(6) is amended to read as follows:

''(C) Paragraph (3) shall not apply to a foreign trust. In the case of such a trust—

''(i) there shall be included gains from the sale or exchange of capital assets, reduced by losses from such sales or exchanges to the extent such losses do not exceed gains from such sales or exchanges, and

''(ii) the deduction under section 1203 shall not be taken into account.''.

(5) Paragraph (4) of section 691(c) is amended by inserting ''1203,'' after ''1202,''.

(6) Paragraph (2) of section 871(a) is amended by inserting ''or 1203,'' after ''1202,''.

(7) The table of sections for part I of subchapter P of chapter 1 is amended by adding at the end the following new item:

''Sec. 1203. Deduction for qualified timber gain.''.

(i) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 702. EXCISE TAX NOT APPLICABLE TO SECTION 1203 DEDUCTION OF REAL ESTATE INVESTMENT TRUSTS.

(a) IN GENERAL.—

(1) ORDINARY INCOME.—Subparagraph (B) of section 4981(e)(1) is amended to read as follows:

''(B) by not taking into account—

''(i) any gain or loss from the sale or exchange of capital assets (determined without regard to any reduction that would be applied for purposes of section 857(b)(3)(G)(i)), and

''(ii) any deduction allowable under section 1203, and''.

(2) CAPITAL GAIN NET INCOME.—Section 4981(e)(2) is amended by adding at the end the following new subparagraph:

''(D) QUALIFIED TIMBER GAIN.—The amount determined under subparagraph (A) shall be determined without regard to any reduction that would be applied for purposes of section 857(b)(3)(G)(i) but shall be reduced for any deduction allowable under section 1203 for such calendar year.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 703. TIMBER REIT MODERNIZATION.

(a) IN GENERAL.—Section 856(c)(5) is amended by adding after subparagraph (G) the following new subparagraph:

''(H) TREATMENT OF TIMBER GAINS.—

''(i) IN GENERAL.—Gain from the sale of real property described in paragraph (2)(D) and (3)(C) shall include gain which is—

''(I) recognized by an election under section 631(a) from timber owned by the real estate investment trust, the cutting of which is provided by a taxable REIT subsidiary of the real estate investment trust;

''(II) recognized under section 631(b); or

''(III) income which would constitute gain under subclause (I) or (II) but for the failure to meet the 1-year holding period requirement.

''(ii) SPECIAL RULES.—

''(I) For purposes of this subtitle, cut timber, the gain of which is recognized by a real estate investment trust pursuant to an election under section 631(a) described in clause (i)(I) or so much of clause (i)(III) as relates to clause (i)(I), shall be deemed to be sold to the taxable REIT subsidiary of the real estate investment trust on the first day of the taxable year.

''(II) For purposes of this subtitle, income described in this subparagraph shall not be treated as gain from the sale of property described in section 1221(a)(1).

''(iii) TERMINATION.—This subparagraph shall not apply to dispositions after the termination date.''.

(b) TERMINATION DATE.—Subsection (c) of section 856 is amended by adding at the end the following new paragraph:

''(8) TERMINATION DATE.—For purposes of this subsection, the term 'termination date' means the last day of the first taxable year beginning after the date of the enactment of this paragraph.''.

(c) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to dispositions in taxable years beginning after the date of the enactment of this Act.

SEC. 704. MINERAL ROYALTY INCOME QUALIFYING INCOME FOR TIMBER REITS.

(a) IN GENERAL.—Section 856(c)(2) is amended by striking ''and'' at the end of subparagraph (G), by inserting ''and'' at the end of subparagraph (H), and by adding after subparagraph (H) the following new subparagraph:

''(I) mineral royalty income earned in the first taxable year beginning after the date of the enactment of this subparagraph from real property owned by a timber real estate investment trust held, or once held, in connection with the trade or business of producing timber by such real estate investment trust;''.

(b) TIMBER REAL ESTATE INVESTMENT TRUST.—Section 856(c)(5), as amended by this Act, is amended by adding after subparagraph (H) the following new subparagraph:

''(I) TIMBER REAL ESTATE INVESTMENT TRUST.—The term 'timber real estate investment trust' means a real estate investment trust in which more than 50 percent in value of its total assets consists of real property held in connection with the trade or business of producing timber.''.

(c) EFFECTIVE DATE.—The amendments by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 705. MODIFICATION OF TAXABLE REIT SUBSIDIARY ASSET TEST FOR TIMBER REITS.

(a) IN GENERAL.—Section 856(c)(4)(B)(ii) is amended by inserting ''(in the case of a quarter which closes on or before the termination date, 25 percent in the case of a timber real estate investment trust)'' after ''not more than 20 percent of the value of its total assets is represented by securities of one or more taxable REIT subsidiaries''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 706. SAFE HARBOR FOR TIMBER PROPERTY.

(a) IN GENERAL.—Section 857(b)(6) (relating to income from prohibited transactions) is amended by adding at the end the following new subparagraph:

''(G) SPECIAL RULES FOR SALES TO QUALIFIED ORGANIZATIONS.—

''(i) IN GENERAL.—In the case of sale of a real estate asset (as defined in section 856(c)(5)(B)) to a qualified organization (as defined in section 170(h)(3)) exclusively for conservation purposes (within the meaning of section 170(h)(1)(C)), subparagraph (D) shall be applied—

''(I) by substituting '2 years' for '4 years' in clause (i), and

''(II) by substituting '2-year period' for '4-year period' in clauses (ii) and (iii).

''(ii) TERMINATION.—This subparagraph shall not apply to sales after the termination date.''.

(b) PROHIBITED TRANSACTIONS.—Section 857(b)(6)(D)(v) is amended by inserting ''or, in the case of a sale on or before the termination date, a taxable REIT subsidiary'' after ''independent contractor (as defined in section 856(d)(3)) from whom the trust itself does not derive or receive any income''.

(c) SALES THAT ARE NOT PROHIBITED TRANSACTIONS.—Section 857(b)(6), as amended by subsection (a), is amended by adding at the end the following new subparagraph:

''(H) SALES OF PROPERTY THAT ARE NOT A PROHIBITED TRANSACTION.—In the case of a sale on or before the termination date, the sale of property which is not a prohibited transaction through application of subparagraph (D) shall be considered property held for investment or for use in a trade or business and not property described in section 1221(a)(1) for all purposes of this subtitle.''.

(d) TERMINATION DATE.—Section 857(b)(6), as amended by subsections (a) and (c), is amended by adding at the end the following new subparagraph:

''(I) TERMINATION DATE.—For purposes of this paragraph, the term 'termination date' means the last day of the first taxable year beginning after the date of the enactment of this subparagraph.''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to dispositions in taxable years beginning after the date of the enactment of this Act.

SA 4439. Mrs. LINCOLN submitted an amendment intended to be proposed to

amendment SA 4387 submitted by Mr. DODD (for himself and Mr. SHELBY) to the bill H.R. 3221, moving the United States toward greater energy independence and security, developing innovative new technologies, reducing carbon emissions, creating green jobs, protecting consumers, increasing clean renewable energy production, and modernizing our energy infrastructure, and to amend the Internal Revenue Code of 1986 to provide tax incentives for the production of renewable energy and energy conservation; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. CLARIFICATION OF SCOPE OF APPLICABLE RATE PROVISION.

Section 44(f) of the Federal Deposit Insurance Act (12 U.S.C. 1831u(f)) is amended by adding at the end the following new paragraphs:

''(3) OTHER LENDERS.—In the case of any other lender doing business in the State described in paragraph (1), the maximum interest rate or amount of interest, discount points, finance charges, or other similar charges that may be charged, taken, received, or reserved from time to time in any loan, discount, or credit sale made, or upon any note, bill of exchange, financing transaction, or other evidence of debt issued to or acquired by any other lender shall be equal to not more than the greater of the rates described in subparagraph (A) or (B) of paragraph (1).

''(4) OTHER LENDER DEFINED.—For purposes of paragraph (3), the term 'other lender' means any person engaged in the business of selling or financing the sale of personal property (and any servicers incidental to the sale of personal property) in such State, except that, with regard to any person or entity described in such paragraph, such term does not include—

''(A) an insured depository institution; or

''(B) any person or entity engaged in the business of providing a short-term case advance to any consumer in exchange for—

''(i) a consumer's personal check or share draft, in the amount of the advance plus a fee, where presentment or negotiation of such check or share draft is deferred by agreement of the parties until a designated future date; or

''(ii) a consumer authorization to debit the consumer's transaction account, in the amount of the advance plus a fee, where such account will be debited on or after a designated future date.''.

SA 4440. Mr. NELSON of Nebraska submitted an amendment intended to be proposed to amendment SA 4387 submitted by Mr. DODD (for himself and Mr. SHELBY) to the bill H.R. 3221, moving the United States toward greater energy independence and security, developing innovative new technologies, reducing carbon emissions, creating green jobs, protecting consumers, increasing clean renewable energy production, and modernizing our energy infrastructure, and to amend the Internal Revenue Code of 1986 to provide tax incentives for the production of renewable energy and energy conservation; which was ordered to lie on the table; as follows:

On page 73, strike lines 19 through 21 and insert the following:

(d) MODIFICATION OF DEFINITION OF QUALIFIED HOME IMPROVEMENT LOAN.—Paragraph (4) of section 143(k) of the Internal Revenue Code of 1986 (relating to qualified home improvement loan) is amended to read as follows:

''(4) QUALIFIED HOME IMPROVEMENT LOAN.—The term 'qualified home improvement loan' means the financing (in an amount which does not exceed 50 percent of the purchase price limitation that would be applicable to the residence to be improved under subsection (e) if such residence were to be acquired by the mortgagor at the time of execution of the qualified home improvement loan)—

''(A) of alterations, repairs, and improvements on or in connection with an existing residence by the owner thereof, but

''(B) only of such items as substantially protect or improve the basic livability or energy efficiency of the property.''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to bonds issued after the date of the enactment of this Act.

SA 4441. Mr. REID (for Mr. OBAMA) submitted an amendment intended to be proposed by Mr. REID to the bill H.R. 3221, moving the United States toward greater energy independence and security, developing innovative new technologies, reducing carbon emissions, creating green jobs, protecting consumers, increasing clean renewable energy production, and modernizing our energy infrastructure, and to amend the Internal Revenue Code of 1986 to provide tax incentives for the production of renewable energy and energy conservation; which was ordered to lie on the table; as follows:

At the end, add the following:

TITLE VIII—MORTGAGE FRAUD

SEC. 801. MORTGAGE FRAUD.

(a) IN GENERAL.—Chapter 63 of title 18, United States Code, is amended by adding at the end the following:

''§ 1351. Mortgage fraud

''(a) IN GENERAL.—It shall be unlawful for any mortgage professional to knowingly execute, or attempt to execute, a scheme or artifice—

''(1) to defraud any natural person, financial institution, or purchaser of consumer credit or an interest in consumer credit in connection with the offer or extension of consumer credit (as such term is defined in subsections (e) and (h) under section 103 of the Truth in Lending Act (15 U.S.C. 1602(e) and (h))), which credit is, is to be, or is portrayed as being secured by an interest—

''(A) in real property; or

''(B) in personal property used or expected to be used as the principal dwelling (as such term is defined under section 103(v) of the Truth in Lending Act (15 U.S.C. 1602(v))) of the natural person to whom such consumer credit is offered or extended; or

''(2) to obtain, by means of false or fraudulent pretenses, representations, or promises, any money or property, including without limitation in the form of fees or charges, from a natural person in connection with an extension of consumer credit which is, is to be, or is portrayed as being secured by an interest—

''(A) in real property; or

''(B) in personal property used or expected to be used as the principal dwelling of such natural person;

''(b) PENALTIES.—

''(1) CRIMINAL PENALTIES.—Any mortgage professional who violates subsection (a) shall be fined not more than $5,000,000, or imprisoned not more than 35 years, or both.

''(2) CIVIL PENALTIES.—Any mortgage professional who violates subsection (a) shall be liable for an amount equal to the sum of all finance charges and fees paid or payable by the natural person, financial institution, or purchaser who was defrauded unless the mortgage professional demonstrates that such violation is not material.

''(c) PRIVATE RIGHT OF ACTION BY PERSONS AGGRIEVED.—

''(1) IN GENERAL.—Any person aggrieved by a violation of this section, or any regulation under this section may, but shall not be required to, file suit in any district court of the United States or any State court having jurisdiction of the parties to such suit—

''(A) without respect to the amount in controversy;

''(B) without regard to the citizenship of the parties; and

''(C) without regard to exhaustion of any administrative remedies.

''(2) REMEDIES.—Any court in which a civil action has been brought under paragraph (1) may—

''(A) award damages and appropriate declaratory and injunctive relief for each violation of this section; and

''(B) provide such additional relief as the court deems appropriate, including the award of court costs, investigative costs, and reasonable attorneys' fees incurred by persons aggrieved.

''(d) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to modify, lessen, or otherwise affect any other provision of this title relating to the rights afforded to financial institutions or purchasers of consumer credit or interests in consumer credit.

''(e) DEFINITION.—As used in this section, the term 'mortgage professional' includes real estate appraisers, real estate accountants, real estate attorneys, real estate brokers, mortgage brokers, mortgage underwriters, mortgage processors, mortgage settlement companies, mortgage title companies, mortgage loan originators, and any other provider of professional services engaged in the mortgage process.''.

(b) TABLE OF SECTIONS.—The table of sections for chapter 63 of title 18, United States Code, is amended by inserting after the item relating to section 1350 the following:

''1351. Mortgage fraud.''.

(c) CONFORMING AMENDMENT.—Section 3293(2) of title 18, United States Code, is amended by striking ''or 1343'' and inserting '', 1343, or 1351''.

SA 4442. Mr. REID (for Mr. OBAMA) submitted an amendment intended to be proposed by Mr. REID to the bill H.R. 3221, moving the United States toward greater energy independence and security, developing innovative new technologies, reducing carbon emissions, creating green jobs, protecting consumers, increasing clean renewable energy production, and modernizing our energy infrastructure, and to amend the Internal Revenue Code of 1986 to provide tax incentives for the production of renewable energy and energy conservation; which was ordered to lie on the table; as follows:

At the end, add the following:

TITLE VIII—DEBARRED OR CENSURED MORTGAGE PROFESSIONAL DATABASE

SEC. 801. DEBARRED OR CENSURED MORTGAGE PROFESSIONAL DATABASE.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—Not later than 18 months after the date of enactment of this Act, the Attorney General shall establish a Debarred

or Censured Mortgage Professional Database that may be accessed by authorized depository institutions, mortgage lenders, mortgage professionals, securities and bond rating agencies, and consumers to determine the Federal and State bar status of mortgage professionals regulated by any Federal or State agency.

(2) PRIVATE CERTIFICATION BOARDS.—Any widely accepted private certification board shall have authority to access, maintain, and update the Debarred or Censured Mortgage Professional Database established in paragraph (1) for purposes of adding or removing the information of any mortgage professional contained in such Database.

(3) WIDELY ACCEPTED PRIVATE CERTIFICATION BOARD.—Not later than 18 months after the date of enactment of this Act, the Attorney General, in consultation with the Secretary of the Treasury, shall—

(A) determine the definition of the term ''widely accepted private certification board''; and

(B) issue procedures and guidance on how officers, agents, and employees of such boards shall conduct the responsibilities described in paragraph (2).

(4) PUBLIC AVAILABILITY.—The Attorney General shall make the Debarred or Censured Mortgage Professional Database established in paragraph (1) available to the public on the Internet, without fee or other access charge, in a searchable, sortable, and downloadable manner.

(b) IMMUNITY FROM CIVIL LIABILITY.—Any officer, agent, or employee of a widely accepted private certification board, who in good faith follows the procedures and guidance set forth under subsection (a)(3)(B), shall not be liable in any court of any State or the United States to any mortgage professional or other person—

(1) for carrying out the responsibilities described in subsection (a)(2); or

(2) for nondisclosure to that mortgage professional or other person that such conduct occurred.

(c) WHISTLEBLOWER PROTECTION.—

(1) IN GENERAL.—No officer, agent, or employee of a widely accepted private certification board may be discharged, demoted, threatened, suspended, harassed, or in any other manner discriminated against in the terms and conditions of the employment of such officer, agent, or employee because of any lawful act done by such officer, agent, or employee to provide information, cause information to be provided, or otherwise assist in an investigation regarding any—

(A) possible violation of this section, including not following the procedures and guidance set forth under subsection (a)(3)(B); or

(B) other misconduct, by any other officer, agent, or employee of the board.

(2) CIVIL ACTION.—An officer, agent, or employee injured by a violation of paragraph (1) may, in a civil action, obtain appropriate relief.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to establish and maintain the database required under subsection (a).

SA 4443. Mrs. LINCOLN (for herself and Mr. SMITH) submitted an amendment intended to be proposed by her to the bill H.R. 3221, moving the United States toward greater energy independence and security, developing innovative new technologies, reducing carbon emissions, creating green jobs, protecting consumers, increasing clean renewable energy production, and modernizing our energy infrastructure, and to amend the Internal Revenue Code of 1986 to provide tax incentives for the production of renewable energy and energy conservation; which was ordered to lie on the table; as follows:

On page 82, between lines 7 and 8, insert the following:

TITLE VII—COMMUNITY RESTORATION AND REVITALIZATION

SEC. 701. MODIFICATIONS TO RULES FOR DETERMINING THE APPLICABLE PERCENTAGE FOR CERTAIN BUILDINGS ELIGIBLE FOR LOW-INCOME HOUSING CREDIT.

(a) IN GENERAL.—Subparagraph (B) of section 42(b)(2) of the Internal Revenue Code of 1986 (relating to the method of prescribing the applicable percentage) is amended by striking ''and'' at the end of clause (i), by striking the period at the end of clause (ii) and inserting a comma, and by adding at the end the following new clauses:

''(iii) 87.5 percent of the qualified basis of a building described in paragraph (1)(A), if the basis of the building is subject to the basis adjustment for rehabilitation credit property required under section 50(c), and

''(iv) 37.5 percent of the qualified basis of a building described in paragraph (1)(B), if the basis of the building is subject to the basis adjustment for rehabilitation credit property required under section 50(c).''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to—

(1) housing credit dollar amounts allocated after December 31, 2006, and

(2) buildings placed in service after such date to the extent paragraph (1) of section 42(h) of the Internal Revenue Code of 1986 does not apply to any building by reason of paragraph (4) thereof, but only with respect to bonds issued after such date.

SEC. 702. MODIFICATION TO BASIS ADJUSTMENT RULE.

(a) IN GENERAL.—Paragraph (3) of section 50(c) of the Internal Revenue Code of 1986 (relating to special rules for determining basis) is amended by inserting ''or rehabilitation credit'' after ''energy credit''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2006.

SEC. 703. INCREASE IN THE REHABILITATION CREDIT FOR CERTAIN SMALLER PROJECTS.

(a) IN GENERAL.—Section 47 of the Internal Revenue Code of 1986 (relating to rehabilitation credit) is amended by adding at the end the following new subsection:

''(e) SPECIAL RULE REGARDING CERTAIN SMALLER PROJECTS.—

''(1) IN GENERAL.—In the case of any qualified rehabilitated building or portion thereof—

''(A) which is placed in service after the date of the enactment of this subsection, and

''(B) which is a smaller project,

subsection (a)(2) shall be applied by substituting '40 percent' for '20 percent' with respect to qualified rehabilitation expenditures not over $1,000,000, and '20 percent' with respect to qualified rehabilitation expenditures of over $1,000,000.

''(2) SMALLER PROJECT DEFINED.—For purposes of this section, the term 'smaller project' means any qualified rehabilitated building or portion thereof as to which—

''(A) the qualified rehabilitation expenditures reported by the taxpayer for purposes of calculating the credit under this section are not over $2,000,000, except that for purposes of making this determination, qualified rehabilitation expenditures attributable to the provisions of subsection (c)(2)(E) shall be disregarded, and

''(B) no credit was allowable under this section during any of the two prior taxable years, provided that this subparagraph shall not apply to any building as to which the election provided for in subsection (d)(5) shall have been made.

''(3) COORDINATION WITH SUBSECTION (d).—With respect to any building as to which the election provided for in subsection (d)(5) shall have been made, such building shall be deemed a smaller project only if the qualified rehabilitation expenditures reported by the taxpayer for purposes of calculating the credit under this section with respect to the taxable years to which such election shall apply are, in the aggregate, not over $2,000,000.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to property placed in service after the date of the enactment of this Act.

SEC. 704. USE FOR LODGING NOT TO DISQUALIFY FOR REHABILITATION CREDIT PROPERTY WHICH IS NOT A CERTIFIED HISTORIC STRUCTURE.

(a) IN GENERAL.—Subparagraph (C) of section 50(b)(2) of the Internal Revenue Code of 1986 (relating to property eligible for the investment credit) is amended by striking ''certified historic structure'' and inserting ''qualified rehabilitated building''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to property placed in service after the date of the enactment of this Act.

SEC. 705. DATE BY WHICH BUILDING MUST BE FIRST PLACED IN SERVICE.

(a) IN GENERAL.—Subparagraph (B) of section 47(c)(1) of the Internal Revenue Code of 1986 (relating to the date by which building must be first placed in service) is amended—

(1) by striking ''BUILDING MUST BE FIRST PLACED IN SERVICE BEFORE 1936'' in the heading and inserting ''DATE BY WHICH BUILDING MUST FIRST BE PLACED IN SERVICE'', and

(2) by striking ''before 1936'' in the text and inserting ''no less than 50 years prior to the year in which qualified rehabilitation expenditures are taken into account under subsection (b)(1)''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after the date of the enactment of this Act.

SEC. 706. MODIFICATIONS REGARDING CERTAIN TAX-EXEMPT USE PROPERTY.

(a) IN GENERAL.—Subclause (I) of section 47(c)(2)(B)(v) of the Internal Revenue Code of 1986 (relating to tax-exempt use property) is amended by inserting '', except that for purposes of this clause, '50 percent' shall be substituted for '35 percent' in applying section 168(h)(1)(B)(iii))'' before the period at the end.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after the date of the enactment of this Act.

SEC. 707. INCREASE IN REHABILITATION CREDIT FOR BUILDINGS IN HIGH COST AREAS.

(a) IN GENERAL.—Paragraph (2) of section 47(c) of the Internal Revenue Code of 1986 (relating to the definition of qualified rehabilitation expenditures) is amended by adding at the end the following new subparagraph:

''(E) INCREASE IN CREDIT FOR BUILDINGS IN HIGH COST AREAS.—

''(i) IN GENERAL.—In the case of any qualified rehabilitated building located in a qualified census tract or difficult development area which is designated for purposes of this subparagraph, the qualified rehabilitation expenditures for purposes of this section shall be 130 percent of such expenditures determined without regard to this subparagraph.

''(ii) RULES.—For purposes of clause (i), rules similar to the rules of section 42(d)(5)(C) (excluding clause (i) thereof) shall be applied.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after the date of the enactment of this Act.

SEC. 708. RECAPTURE OF REHABILITATION CREDIT FOR CERTIFIED HISTORIC STRUCTURE NOT TRIGGERED BY CONDOMINIUM TRANSACTION.

(a) IN GENERAL.—Subsection (a) of section 50 of the Internal Revenue Code of 1986 (relating to recapture of credits upon disposition of property) is amended by adding at the end thereof the following new paragraph:

''(6) SPECIAL RULE FOR CERTIFIED HISTORIC STRUCTURES.—In the case of the rehabilitation credit determined under section 47(a)(2), paragraphs (1) and (2) shall not apply to a transaction in which a portion of the building is transferred as a condominium unit.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to transfers after the date of enactment of this Act.

SA 4444. Mrs. BOXER submitted an amendment intended to be proposed by her to the bill H.R. 3221, moving the United States toward greater energy independence and security, developing innovative new technologies, reducing carbon emissions, creating green jobs, protecting consumers, increasing clean renewable energy production, and modernizing our energy infrastructure, and to amend the Internal Revenue Code of 1986 to provide tax incentives for the production of renewable energy and energy conservation; which was ordered to lie on the table; as follows:

At the end, insert the following:

TITLE VIII—SENSE OF THE SENATE

SEC. 801. SENSE OF THE SENATE.

It is the sense of the Senate that in implementing or carrying out any provision of this Act, or any amendment made by this Act, the Senate supports a policy of noninterference regarding local government requirements that the holder of a foreclosed property maintain that property.

SA 4445. Mrs. BOXER submitted an amendment intended to be proposed by her to the bill H.R. 3221, moving the United States toward greater energy independence and security, developing innovative new technologies, reducing carbon emissions, creating green jobs, protecting consumers, increasing clean renewable energy production, and modernizing our energy infrastructure, and to amend the Internal Revenue Code of 1986 to provide tax incentives for the production of renewable energy and energy conservation; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. NOTIFICATION OF SALE OR TRANSFER OF MORTGAGE LOANS.

The Truth in Lending Act (15 U.S.C. 1601 et seq.) is amended by inserting after section 129 the following new section:

''SEC. 129A. NOTICE OF NEW CREDITOR.

''(a) IN GENERAL.—In addition to other disclosures required by this title, not later than 30 days after the date on which a mortgage loan is sold or otherwise transferred or assigned to a third party, the creditor that is the new owner or assignee of the debt shall notify the borrower in writing of such transfer, including—

''(1) the identity, address, telephone number of the new creditor;

''(2) the date of transfer;

''(3) how to reach an agent or party having authority to act on behalf of the new creditor;

''(4) the location of the place where transfer of ownership of the debt is recorded; and

''(5) any other relevant information regarding the new creditor.

''(b) DEFINITION.—As used in this section, the term 'mortgage loan' means any consumer credit transaction that is secured by the principal dwelling of a consumer.''.

SA 4446. Mr. LEAHY (for himself and Mr. SANDERS) submitted an amendment intended to be proposed by him to the bill H.R. 3221, moving the United States toward greater energy independence and security, developing innovative new technologies, reducing carbon emissions, creating green jobs, protecting consumers, increasing clean renewable energy production, and modernizing our energy infrastructure, and to amend the Internal Revenue Code of 1986 to provide tax incentives for the production of renewable energy and energy conservation; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. NATIONWIDE DISTRIBUTION OF RESOURCES.

Notwithstanding any other provision of this Act or the amendments made by this Act, each State shall receive not less than 0.5 percent of funds made available under each of section 301 (relating to emergency assistance for the redevelopment of abandoned and foreclosed homes) and section 401 (relating to housing counseling resources).

SA 4447. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill H.R. 3221, moving the United States toward greater energy independence and security, developing innovative new technologies, reducing carbon emissions, creating green jobs, protecting consumers, increasing clean renewable energy production, and modernizing our energy infrastructure, and to amend the Internal Revenue Code of 1986 to provide tax incentives for the production of renewable energy and energy conservation; which was ordered to lie on the table; as follows:

On page 53, strike lines 23 through 25, and insert the following:

(C) establish land banks for homes that have been foreclosed upon;

(D) establish or support land banks for homes that have been damaged or destroyed as a result of Hurricanes Katrina or Rita of 2005, or to rehabilitate or redevelop such damaged or destroyed homes which have been conveyed by the State or unit of local government; and

(E) demolish blighted structures.

SA 4448. Ms. LANDRIEU submitted an amendment intended to be proposed to amendment SA 4387 submitted by Mr. DODD (for himself and Mr. SHELBY) to the bill H.R. 3221, moving the United States toward greater energy independence and security, developing innovative new technologies, reducing carbon emissions, creating green jobs, protecting consumers, increasing clean renewable energy production, and modernizing our energy infrastructure, and to amend the Internal Revenue Code of 1986 to provide tax incentives for the production of renewable energy and energy conservation; which was ordered to lie on the table; as follows:

On page 76, strike line 13 through page 77, line 9, and insert the following:

structure that is—

''(i) a residence—

''(I) upon which foreclosure has been filed pursuant to the laws of the State in which the residence is located, and

''(II) which—

''(aa) is a new previously unoccupied residence for which a building permit was issued and construction began on or before September 1, 2007, or

''(bb) was occupied as a principal residence by the mortgagor for at least 1 year prior to the foreclosure filing, or

''(ii) a residence that is damaged as a result of Hurricane Katrina, Hurricane Rita, or Hurricane Wilma, and that has been sold or transferred to a State or local government as a result of such damage.

''(B) SINGLE-FAMILY.—For purposes of subparagraph (A)(ii), the term 'single-family' includes 2, 3, or 4 family residences one unit of which was occupied by the owner of the units at the time of the occurrence of the damage described in such subparagraph.

''(C) CERTIFICATION.—

''(i) NEW PREVIOUSLY UNOCCUPIED RESIDENCE.—In the case of an eligible single-family residence described in subparagraph (A)(i)(II)(aa), no credit shall be allowed under this section unless the purchaser submits a certification by the seller of such residence that such residence meets the requirements of such subparagraph.

''(ii) RESIDENCE TRANSFERRED AS A RESULT OF HURRICANE.—In the case of an eligible single-family residence described in subparagraph (A)(ii), no credit shall be allowed under this section unless the purchaser submits a certification by the appropriate State or local government that such residence meet the requirements of such subparagraph.

On page 79, between lines 3 and 4, insert the following:

''(4) HOMES TRANSFERRED AS A RESULT OF HURRICANE.—In the case of a qualified principal residence described in subsection (c)(2)(A)(ii)—

''(A) LIMITATION BASED ON INCOME.—No credit shall be allowed under this section if the taxpayer's adjusted gross income for the taxable year exceeds $50,000 ($100,000 in the case of a joint return).

''(B) RECAPTURE PERIOD.—Subsection (e) shall be applied by substituting '36 months' for '24 months'.

SA 4449. Mr. ENSIGN submitted an amendment intended to be proposed by him to the bill H.R. 3221, moving the United States toward greater energy independence and security, developing innovative new technologies, reducing carbon emissions, creating green jobs, protecting consumers, increasing clean renewable energy production, and modernizing our energy infrastructure, and to amend the Internal Revenue Code of 1986 to provide tax incentives for the production of renewable energy and energy conservation; which was ordered to lie on the table; as follows:

On page 54, strike line 17 and all that follows through page 55, line 9, and insert the following:

(3) REINVESTMENT OF PROFITS.—

(A) PROFITS FROM SALES, RENTALS, AND REDEVELOPMENT.—

(i) 2-YEAR REINVESTMENT PERIOD.—During the 2-year period following the date of enactment of this Act, any revenue generated

from the sale, rental, redevelopment, rehabilitation, or any other eligible use that is in excess of the cost to acquire and redevelop (including reasonable development fees) or rehabilitate an abandoned or foreclosed upon home or residential property shall be provided to and used by the State or unit of general local government in accordance with, and in furtherance of, the intent and provisions of this section.

(ii) DEPOSITS IN THE TREASURY.—

(I) PROFITS.—Upon the expiration of the 2-year period set forth under clause (i), any revenue generated from the sale, rental, redevelopment, rehabilitation, or any other eligible use that is in excess of the cost to acquire and redevelop (including reasonable development fees) or rehabilitate an abandoned or foreclosed upon home or residential property shall be deposited in the Treasury of the United States as miscellaneous receipts.

(II) OTHER AMOUNTS.—Upon the expiration of the 2-year period set forth under clause (i), any other revenue not described under subclause (I) generated from the sale, rental, redevelopment, rehabilitation, or any other eligible use of an abandoned or foreclosed upon home or residential property shall be deposited in the Treasury of the United States as miscellaneous receipts.

(B) OTHER REVENUES.—Any revenue generated under subparagraphs (A), (C) or (D) of subsection (c)(3) shall be provided to and used by the State or unit of general local government in accordance with, and in furtherance of, the intent and provisions of this section.

(4) SALE REQUIREMENT.—If a State or unit of general local government purchases or otherwise acquires an abandoned or foreclosed upon home or residential property with funds received pursuant to this section or with any amounts derived or generated from activities authorized under this section, that State or unit of general local government shall sell such home or property by a date that is not later than 4 years after the date of enactment of this Act.

SA 4450. Mr. ENSIGN submitted an amendment intended to be proposed to amendment SA 4387 submitted by Mr. DODD (for himself and Mr. SHELBY) to the bill H.R. 3221, moving the United States toward greater energy independence and security, developing innovative new technologies, reducing carbon emissions, creating green jobs, protecting consumers, increasing clean renewable energy production, and modernizing our energy infrastructure, and to amend the Internal Revenue Code of 1986 to provide tax incentives for the production of renewable energy and energy conservation; which was ordered to lie on the table; as follows:

On page 70, strike lines 14 through 21 and insert the following:

''(A) INCREASE FOR 2008.—In the case of calendar year 2008, the State ceiling for each State shall be increased by an amount equal to $10,000,000,000 multiplied by a fraction—

''(i) the numerator of which is the number of foreclosures on residential property filed in such State, and

''(ii) the denominator of which is the total number of foreclosures on residential property filed in all States.

SA 4451. Mr. ENSIGN submitted an amendment intended to be proposed to amendment SA 4387 submitted by Mr. DODD (for himself and Mr. SHELBY) to the bill H.R. 3221, moving the United States toward greater energy independence and security, developing innovative new technologies, reducing carbon emissions, creating green jobs, protecting consumers, increasing clean renewable energy production, and modernizing our energy infrastructure, and to amend the Internal Revenue Code of 1986 to provide tax incentives for the production of renewable energy and energy conservation; which was ordered to lie on the table; as follows:

On page 70, strike lines 14 through 22 and insert the following:

''(A) INCREASE FOR 2008.—In the case of calendar year 2008, the State ceiling for each State shall be increased by an amount equal to the greater of—

''(i) $10,000,000,000 multiplied by a fraction—

''(I) the numerator of which is the number of foreclosures on residential property filed in such State, and

''(II) the denominator of which is the total number of foreclosures on residential property filed in all States, or

''(ii) the amount determined under subparagraph (B).

''(B) MINIMUM AMOUNT.—The amount determined under this subparagraph is—

''(i) in the case of a State (other than a possession) or Puerto Rico, $90,300,606, and

''(ii) in the case of a possession of the United States (other than Puerto Rico) with a population less than the least populous State (other than a possession), the product of—

''(I) a fraction the numerator of which is $90,300,606 and the denominator of which is population of the least populous State (other than a possession), and

''(II) the population of such possession.

In the case of any possession of the United States not described in clause (i) or (ii), the amount determined under this subparagraph shall be zero.

''(C) SET ASIDE.—

SA 4452. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill H.R. 3221, moving the United States toward greater energy independence and security, developing innovative new technologies, reducing carbon emissions, creating green jobs, protecting consumers, increasing clean renewable energy production, and modernizing our energy infrastructure, and to amend the Internal Revenue Code of 1986 to provide tax incentives for the production of renewable energy and energy conservation; which was ordered to lie on the table; as follows:

On page 34, line 13, insert after the period the following: ''Notwithstanding any other provision of this Act or regulations promulgated under this Act, the Secretary shall, in addition to information regarding individual mortgagees, develop criteria to quantify risks associated with individual originators or lenders. In developing such criteria, the Secretary shall develop a system for grading the performance of individual originators and lenders that considers the adequacy of quality controls to ensure the accuracy of information supplied as part of any loan application, file, or agreement. The Secretary shall promulgate such rules as are necessary to facilitate the collection and evaluation of information necessary to establish the criteria specified in this subsection. The Secretary shall amend any planned implementation of risk-based premiums to incorporate information on originator and lender performance in the determination or calculation of any risk based premium.''.

SA 4453. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill H.R. 3221, moving the United States toward greater energy independence and security, developing innovative new technologies, reducing carbon emissions, creating green jobs, protecting consumers, increasing clean renewable energy production, and modernizing our energy infrastructure, and to amend the Internal Revenue Code of 1986 to provide tax incentives for the production of renewable energy and energy conservation; which was ordered to lie on the table; as follows:

At the end, add the following new title:

TITLE VIII—FEDERAL RESERVE

SEC. 801. FINDINGS.

Congress finds that—

(1) recent disruptions in the housing market and the market for mortgage-backed securities have had an adverse impact on the availability and price of credit associated with home mortgages;

(2) improving the ability of Government agencies, government-sponsored enterprises, financial institutions, and investors to better assess risks associated with mortgage lending is critical to the restoration of confidence and liquidity to those markets;

(3) the proper evaluation of risks associated with individual loans requires not only an evaluation of information about the prospective borrower and assessment of the adequacy if the collateral, but also the reliability and accuracy of information submitted by originators to prospective underwriters;

(4) developing a timely system of rating loans that incorporates an objective and standardized evaluation of risks associated with loans originated or funded initially by individual entities or institutions; and

(5) such a system would facilitate a more accurate rating of securities that loans are included in.

SEC. 802. RULEMAKING REQUIRED.

(a) STUDY AND EVALUATION.—

(1) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Board of Governors of the Federal Reserve System (in this title, referred to as the ''Board'') shall, in a manner determined by the Chairman of the Board, undertake an evaluation and study of the efficacy of including risks associated with the quality controls and data accuracy of market participants in the rating of individual mortgage loans.

(2) CONSULTATION.—In conducting the study and evaluation required by this subsection, the Board shall consult with private sector entities to evaluate private sector products that may exist and be currently utilized by various market participants to quantify risks associated with originator and lender quality controls and information.

(b) RULEMAKING.—Not later than 180 days after the date of completion of the study and evaluation prescribed under subsection (a), the Board shall promulgate regulations to implement a system of creating scores associated with mortgage loans that incorporates information about borrowers, originators, underwriters, and lenders. Such system shall be developed in a manner that allows for a more objective and complete evaluation of risks associated with individual loans to facilitate their inclusion in mortgage backed securities.

(c) REQUIREMENT FOR SECURITIZATION AND GUARANTEE.—Beginning 180 days after the effective date of the regulations promulgated under this section, it shall be unlawful to include any loan as part of any mortgage

backed security offered for sale by any Government agency, government-sponsored enterprise, or financial institution that is subject to regulation by the Board or the Securities and Exchange Commission.

SA 4454. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill H.R. 3221, moving the United States toward greater energy independence and security, developing innovative new technologies, reducing carbon emissions, creating green jobs, protecting consumers, increasing clean renewable energy production, and modernizing our energy infrastructure, and to amend the Internal Revenue Code of 1986 to provide tax incentives for the production of renewable energy and energy conservation; which was ordered to lie on the table; as follows:

On page 12, at the end of line 22, add the following: ''The report shall also include an evaluation of the quality control procedures and accuracy of information utilized in the process of underwriting loans guaranteed by the Fund. Such evaluation shall include a review of the risk characteristics of loans based not only on borrower information and performance, but on risks associated with loans originated or funded by various entities or financial institutions.''.

SA 4455. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill H.R. 3221, moving the United States toward greater energy independence and security, developing innovative new technologies, reducing carbon emissions, creating green jobs, protecting consumers, increasing clean renewable energy production, and modernizing our energy infrastructure, and to amend the Internal Revenue Code of 1986 to provide tax incentives for the production of renewable energy and energy conservation; which was ordered to lie on the table; as follows:

On page 14, line 18, strike ''and'' and all that follows through ''to meet'' on line 19 and insert the following:

''(B) to develop objective and standardized criteria to quantify risks associated with individual originators or lenders, for which purpose, the Secretary shall develop a system for grading the performance of individual originators and lenders that considers the adequacy of quality controls to quantify the soundness and control of internal processes; and

''(C) to meet''.

SA 4456. Mr. GREGG submitted an amendment intended to be proposed by him to the bill H.R. 3221, moving the United States toward greater energy independence and security, developing innovative new technologies, reducing carbon emissions, creating green jobs, protecting consumers, increasing clean renewable energy production, and modernizing our energy infrastructure, and to amend the Internal Revenue Code of 1986 to provide tax incentives for the production of renewable energy and energy conservation; which was ordered to lie on the table; as follows:

On page 50, strike line 14 and all that follows through page 58, line 2.

SA 4457. Mr. GREGG submitted an amendment intended to be proposed to amendment SA 4387 submitted by Mr. DODD (for himself and Mr. SHELBY) to the bill H.R. 3221, moving the United States toward greater energy independence and security, developing innovative new technologies, reducing carbon emissions, creating green jobs, protecting consumers, increasing clean renewable energy production, and modernizing our energy infrastructure, and to amend the Internal Revenue Code of 1986 to provide tax incentives for the production of renewable energy and energy conservation; which was ordered to lie on the table; as follows:

On page 63, strike line 3 and all that follows through page 68, line 13 and inserting the following:

SEC. 601. DEFINITION OF ELIGIBLE TAXPAYER.

Section 168(k) of the Internal Revenue Code of 1986 is amended by adding at the end the following new paragraph:

''(4) ELIGIBLE TAXPAYER.—For purposes of paragraph (5), the term 'eligible taxpayer' means any taxpayer who could claim a deduction under this subsection.''.

SA 4458. Mr. GREGG submitted an amendment intended to be proposed by him to the bill H.R. 3221, moving the United States toward greater energy independence and security, developing innovative new technologies, reducing carbon emissions, creating green jobs, protecting consumers, increasing clean renewable energy production, and modernizing our energy infrastructure, and to amend the Internal Revenue Code of 1986 to provide tax incentives for the production of renewable energy and energy conservation; which was ordered to lie on the table; as follows:

On page 58 between lines 2 and 3, insert the following:

SEC. 302. LIMITATION ON USE OF FUNDS WITH RESPECT TO EMINENT DOMAIN.

No State or unit of general local government may use any amounts received pursuant to section 301 to fund any activity or project that involves, includes, or is associated with the use of eminent domain by such State or unit of general local government.

SA 4459. Mr. GREGG submitted an amendment intended to be proposed by him to the bill H.R. 3221, moving the United States toward greater energy independence and security, developing innovative new technologies, reducing carbon emissions, creating green jobs, protecting consumers, increasing clean renewable energy production, and modernizing our energy infrastructure, and to amend the Internal Revenue Code of 1986 to provide tax incentives for the production of renewable energy and energy conservation; which was ordered to lie on the table; as follows:

At the end of the bill, insert the following:

TITLE VIII—ENSURING ASSISTANCE IS NOT USED IN CONJUNCTION WITH EMINENT DOMAIN AUTHORITY

SEC. 801. LIMITATION ON USE OF FUNDS.

(a) DEFINITION.—For purposes of this section, the term ''housing assistance'' means the following:

(1) Any amounts appropriated, authorized to be appropriated, or otherwise made available under this Act, or any amendment made by this Act.

(2) Any qualified mortgage bond issued by a State or political subdivision or any other entity or organization pursuant to section 143(k)(12) of the Internal Revenue Code, as added by section 602 of this Act.

(3) Any tax credit related to certain home purchases allowable under section 25E of the Internal Revenue Code of 1986, as added by section 603 of this Act.

(4) Any assistance, loan, loan guarantee, housing, housing assistance, or other housing related program administered, in whole or in part, by the Secretary of Housing and Urban Development, the Secretary of Veterans Affairs, or any other Federal agency.

(b) LIMITATION ON USE OF ASSISTANCE WITH EMINENT DOMAIN AUTHORITY.—Any State or local government entity that receives housing assistance shall be prohibited from using any such assistance or authority in conjunction with any project that involves, includes, or relies on the use of eminent domain by such State or local government or pursuant to a delegation of such authority by the same.

(c) LIMITATION ON CHANGING THE NATURE OF PROPERTY.—Any State or local government entity that receives housing assistance shall be prohibited from using any such assistance to change the nature of the residential property or rezone the property for commercial use.

SA 4460. Mr. SPECTER (for himself and Mr. CASEY) submitted an amendment intended to be proposed by him to the bill H.R. 3221, moving the United States toward greater energy independence and security, developing innovative new technologies, reducing carbon emissions, creating green jobs, protecting consumers, increasing clean renewable energy production, and modernizing our energy infrastructure, and to amend the Internal Revenue Code of 1986 to provide tax incentives for the production of renewable energy and energy conservation; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ____. EXTENSION OF MOVING TO WORK DEMONSTRATION AGREEMENT.

(a) IN GENERAL.—Notwithstanding any other provision of law, the Secretary of Housing and Urban Development (in this section referred to as the ''Secretary'') shall extend the effective period of the Moving to Work Demonstration Agreement entered into between the Philadelphia Housing Authority and the Department of Housing and Urban Development on or about February 28, 2002, pursuant to section 204 of the Omnibus Consolidated Rescissions and Appropriations Act of 1996, under the heading ''Public Housing/Moving to Work Demonstration'' (Public Law 104–134, 110 Stat. 1321–281) for the 45-day period beginning on April 1, 2008.

(b) COMPLIANCE REVIEW.—If the Philadelphia Housing Authority submits certifications by an independent expert verifying that at least 5 percent of its public housing units are in compliance with section 504 of the Rehabilitation Act of 1973, and such certifications are satisfactory to the Secretary, the Secretary shall further extend the Moving to Work Demonstration Agreement for an additional 1 year period.

(c) TERMS AND CONDITIONS.—Any extension of the Moving to Work Demonstration Agreement under this section shall be under the same terms and conditions as were applicable to the original agreement.

(d) LIMITATION ON ACTIONS OF THE SECRETARY.—The Secretary may not terminate or take any adverse action with respect to an agreement described in subsection (a) or any extension thereto—

(1) unless there has been an express finding, on the record, after opportunity for a hearing, of a failure by the Housing Authority to comply with the terms of the agreement or otherwise applicable provisions of law; and

(2) before the expiration of the 30-day period beginning on the date on which the Secretary has filed with the appropriate committees of Congress a full written report of the circumstances and the grounds for such action.

SA 4461. Mr. CASEY (for himself and Mr. MARTINEZ) submitted an amendment intended to be proposed by him to the bill H.R. 3221, moving the United States toward greater energy independence and security, developing innovative new technologies, reducing carbon emissions, creating green jobs, protecting consumers, increasing clean renewable energy production, and modernizing our energy infrastructure, and to amend the Internal Revenue Code of 1986 to provide tax incentives for the production of renewable energy and energy conservation; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. _____. PROPERTY APPRAISAL REQUIREMENTS.

(a) IN GENERAL.—Section 129 of the Truth in Lending Act (15 U.S.C. 1639) is amended by adding at the end the following new subsection:

''(m) PROPERTY APPRAISAL REQUIREMENTS.—

''(1) IN GENERAL.—A creditor may not extend credit in the form of a mortgage referred to in section 103(aa) to any consumer, without first obtaining a written appraisal of the property to be mortgaged, prepared in accordance with the requirements of this subsection.

''(2) APPRAISAL REQUIREMENTS.—

''(A) PHYSICAL PROPERTY VISIT.—An appraisal of property to be secured by a mortgage referred to in section 103(aa) does not meet the requirements of this subsection unless it is performed by a qualified appraiser who conducts a physical property visit of the interior of the mortgaged property.

''(B) SECOND APPRAISAL UNDER CERTAIN CIRCUMSTANCES.—

''(i) IN GENERAL.—If the purpose of a mortgage referred to in section 103(aa) is to finance the purchase or acquisition of the mortgaged property from a person within 180 days of the date of purchase or acquisition of such property by that person at a price that was lower than the current sale price of the property, the creditor shall obtain a second appraisal from a different qualified appraiser. The second appraisal shall include an analysis of the difference in sale prices, changes in market conditions, and any improvements made to the property between the date of the previous sale and the current sale.

''(ii) NO COST TO CONSUMER.—The cost of any second appraisal required under clause (i) may not be charged to the consumer.

''(C) QUALIFIED APPRAISER DEFINED.—For purposes of this subsection, the term 'qualified appraiser' means a person who—

''(i) is certified or licensed by the State in which the property to be appraised is located; and

''(ii) performs each appraisal in conformity with the Uniform Standards of Professional Appraisal Practice and title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, and the regulations prescribed under such title, as in effect on the date of the appraisal.

''(3) FREE COPY OF APPRAISAL.—A creditor shall provide 1 copy of each appraisal conducted in accordance with this subsection in connection with a mortgage referred to in section 103(aa) to the consumer without charge, at least 3 days prior to the transaction closing date.

''(4) CONSUMER NOTIFICATION.—At the time of the initial mortgage application, the consumer shall be provided with a statement by the creditor that any appraisal prepared for the mortgage is for the sole use of the creditor, and that the consumer may choose to have a separate appraisal conducted at their own expense.

''(5) VIOLATIONS.—In addition to any other liability to any person under this title, a creditor found to have willfully failed to obtain an appraisal as required in this subsection shall be liable to the consumer for the sum of $2,000.''.

(b) EQUAL CREDIT OPPORTUNITY ACT AMENDMENT.—Section 701(e) of the Equal Credit Opportunity Act (15 U.S.C. 1691(e)) is amended to read as follows:

''(e) COPIES FURNISHED TO APPLICANTS.—

''(1) IN GENERAL.—Each creditor shall furnish to an applicant, a copy of all appraisal reports and valuations developed in connection with the applicant's application for a loan that is or would have been secured by a lien on residential real property.

''(2) PROCEDURES.—Appraisal reports shall be furnished under this subsection upon written request by the applicant, made within a reasonable period of time of the application and before closing.

''(3) REIMBURSEMENT.—The creditor may require the applicant to pay a reasonable fee for the provision of copies of appraisal reports under this subsection.

''(4) NOTIFICATION TO CONSUMERS.—The creditor shall notify (pursuant to regulations prescribed by the Board) an applicant in writing of the right to receive a copy of each appraisal report, under this subsection.''.

(c) UNFAIR AND DECEPTIVE ACTS AND PRACTICES RELATING TO CERTAIN CONSUMER CREDIT TRANSACTIONS.—Chapter 2 of the Truth in Lending Act (15 U.S.C. 1631 et seq.) is amended by inserting after section 129 the following new section:

''SEC. 129A. UNFAIR AND DECEPTIVE ACTS AND PRACTICES RELATING TO CERTAIN CONSUMER CREDIT TRANSACTIONS.

''(a) IN GENERAL.—It shall be unlawful, in providing any mortgage lending services for a consumer credit transaction secured by the principal dwelling of the consumer or any mortgage brokerage services for such a transaction, to engage in any unfair or deceptive act or practice.

''(b) APPRAISAL INDEPENDENCE.—For purposes of subsection (a), unfair and deceptive acts or practices shall include—

''(1) any appraisal of a property offered as security for repayment of the consumer credit transaction that is conducted in connection with such transaction, in which a person with an interest in the underlying transaction coerces, bribes, extorts, colludes, or otherwise improperly influences a person conducting or involved in an appraisal, or attempts to coerce, bribe, extort, collude, or otherwise improperly influence such a person, for the purpose of causing the appraised value assigned under the appraisal to the property to be based on any factor other than the independent judgment of the appraiser;

''(2) mischaracterizing or suborning any mischaracterization of, the appraised value of the property securing the extension of credit;

''(3) seeking to influence an appraiser or otherwise to encourage a targeted value in order to facilitate the making or pricing of the transaction; and

''(4) failing to timely compensate an appraiser for a completed appraisal, regardless of whether the transaction closes.

''(c) EXCEPTIONS.—The requirements of subsection (b) may not be construed as prohibiting a mortgage lender, mortgage broker, mortgage banker, real estate broker, or any other person with an interest in a real estate transaction from asking an appraiser to correct errors in the appraisal report.

''(d) RULEMAKING PROCEEDINGS.—The Board and the Federal Trade Commission—

''(1) shall jointly prescribe regulations defining with specificity acts or practices which are unfair or deceptive in the provision of mortgage lending services for a consumer credit transaction secured by the principal dwelling of the consumer or mortgage brokerage services for such a transaction, within the meaning of subsections (a), (b), and (c); and

''(2) may jointly issue interpretive guidelines and general statements of policy with respect to unfair or deceptive acts or practices in the provision of mortgage lending services for a consumer credit transaction secured by the principal dwelling of the consumer and mortgage brokerage services for such a transaction, within the meaning of subsections (a), (b), and (c).

''(e) DEFINITIONS.—For purposes of this section—

''(1) the terms 'mortgage brokerage services' and 'mortgage lending services', have the meanings given such terms in section 13(f) of the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2611(f)); and

''(2) the term 'improperly influence' means any attempt to manipulate, through coercion, extortion, collusion, non-payment for services rendered, direct or indirect compensation, or bribery, the development, reporting, result, or review of a property appraisal.

''(f) PENALTIES.—

''(1) FIRST VIOLATION.—In addition to the enforcement provisions referred to in section 130, each person who violates this section shall forfeit and pay a civil penalty of not more than $10,000 for each day during which any such violation continues.

''(2) SUBSEQUENT VIOLATIONS.—In the case of any person on whom a civil penalty has been imposed under paragraph (1), paragraph (1) shall be applied by substituting '$20,000' for '$10,000' with respect to all subsequent violations.

''(3) ASSESSMENT.—The agency referred to in subsection (a) or (c) of section 108 with respect to any person described in paragraph (1) shall assess any penalty under this subsection to which such person is subject.''.

(d) CLERICAL AMENDMENT.—The table of sections for chapter 2 of the Truth in Lending Act is amended by inserting after the item relating to section 129 the following new item:

''Sec. 129A. Unfair and deceptive practices and acts relating to certain consumer credit transactions.''.

SA 4462. Mr. KERRY (for himself, Mr. GRASSLEY, Mrs. BOXER, and Ms. CANTWELL) submitted an amendment intended to be proposed to amendment Sa 4387 submitted by Mr. DODD (for himself and Mr. SHELBY) to the bill H.R. 3221, moving the United States toward greater energy independence and security, developing innovative new technologies, reducing carbon emissions, creating green jobs, protecting consumers, increasing clean renewable energy production, and modernizing

our energy infrastructure, and to amend the Internal Revenue Code of 1986 to provide tax incentives for the production of renewable energy and energy conservation; which was ordered to lie on the table; as follows:

On page 82, between lines 7 and 8, insert the following:

SEC. _____. INCREASE OF AMT REFUNDABLE CREDIT AMOUNT FOR INDIVIDUALS WITH LONG-TERM UNUSED CREDITS FOR PRIOR YEAR MINIMUM TAX LIABILITY, ETC.

(a) IN GENERAL.—Paragraph (2) of section 53(e) of the Internal Revenue Code of 1986 is amended to read as follows:

''(2) AMT REFUNDABLE CREDIT AMOUNT.—For purposes of paragraph (1), the term 'AMT refundable credit amount' means, with respect to any taxable year, the amount (not in excess of the long-term unused minimum tax credit for such taxable year) equal to the greater of—

''(A) 50 percent of the long-term unused minimum tax credit for such taxable year, or

''(B) the amount (if any) of the AMT refundable credit amount determined under this paragraph for the taxpayer's preceding taxable year.''.

(b) TREATMENT OF CERTAIN UNDERPAYMENTS, INTEREST, AND PENALTIES ATTRIBUTABLE TO THE TREATMENT OF INCENTIVE STOCK OPTIONS.—Section 53 of the Internal Revenue Code of 1986 is amended by adding at the end the following new subsection:

''(f) TREATMENT OF CERTAIN UNDERPAYMENTS, INTEREST, AND PENALTIES ATTRIBUTABLE TO THE TREATMENT OF INCENTIVE STOCK OPTIONS.—

''(1) ABATEMENT.—Any underpayment of tax outstanding on the date of the enactment of this subsection which is attributable to the application of section 56(b)(3) for any taxable year ending before January 1, 2008 (and any interest or penalty with respect to such underpayment which is outstanding on such date of enactment), is hereby abated. No credit shall be allowed under this section with respect to any amount abated under this paragraph.

''(2) INCREASE IN CREDIT FOR CERTAIN INTEREST AND PENALTIES ALREADY PAID.—Any interest or penalty paid before the date of the enactment of this subsection which would (but for such payment) have been abated under paragraph (1) shall be treated for purposes of this section as an amount of adjusted net minimum tax imposed for the taxable year of the underpayment to which such interest or penalty relates.''.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendment made by this section shall apply to taxable years beginning after December 31, 2007.

(2) ABATEMENT.—Section 53(f)(1) of the Internal Revenue Code of 1986, as added by subsection (b), shall take effect on the date of the enactment of this Act.

SA 4463. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill H.R. 3221, moving the United States toward greater energy independence and security, developing innovative new technologies, reducing carbon emissions, creating green jobs, protecting consumers, increasing clean renewable energy production, and modernizing our energy infrastructure, and to amend the Internal Revenue Code of 1986 to provide tax incentives for the production of renewable energy and energy conservation; which was ordered to lie on the table; as follows:

On page 27, beginning on line 20, strike ''conform with those customarily used by secondary market purchasers of residential mortgage loans'' and insert the following: ''improve the overall default risk evaluation currently used by secondary market purchasers of residential mortgage loans. Particular attention shall be given to the development and utilization of processes and technologies that provide a means to standardize the measurement of risk to the Fund as well as to the consumer''.

SA 4464. Mr. CRAPO (for himself and Mr. JOHNSON) submitted an amendment intended to be proposed by him to the bill H.R. 3221, moving the United States toward greater energy independence and security, developing innovative new technologies, reducing carbon emissions, creating green jobs, protecting consumers, increasing clean renewable energy production, and modernizing our energy infrastructure, and to amend the Internal Revenue Code of 1986 to provide tax incentives for the production of renewable energy and energy conservation; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. COMMUNITY DEVELOPMENT INVESTMENT AUTHORITY FOR DEPOSITORY INSTITUTIONS.

(a) DEPOSITORY INSTITUTION COMMUNITY DEVELOPMENT INVESTMENTS.—

(1) NATIONAL BANKS.—The first sentence of the paragraph designated as the ''Eleventh'' of section 5136 of the Revised Statutes of the United States (12 U.S.C. 24) (as amended by section 305(a) of the Financial Services Regulatory Relief Act of 2006) is amended by striking ''promotes the public welfare by benefitting primarily'' and inserting ''is designed primarily to promote the public welfare, including the welfare of''.

(2) STATE MEMBER BANKS.—The first sentence of the 23rd paragraph of section 9 of the Federal Reserve Act (12 U.S.C. 338a) is amended by striking ''promotes the public welfare by benefitting primarily'' and inserting ''is designed primarily to promote the public welfare, including the welfare of''.

(b) INVESTMENTS BY FEDERAL SAVINGS ASSOCIATIONS TO PROMOTE PUBLIC WELFARE.—Section 5(c) of the Home Owners' Loan Act (12 U.S.C. 1464(c)) is amended—

(1) in paragraph (3)—

(A) by striking subparagraph (A); and

(B) by redesignating subparagraphs (B) and (C), as subparagraphs (A) and (B), respectively; and

(2) in paragraph (4), by adding at the end the following new subparagraph:

''(G) DIRECT INVESTMENTS TO PROMOTE THE PUBLIC WELFARE.—

''(i) IN GENERAL.—A Federal savings association may make investments, directly or indirectly, each of which is designed primarily to promote the public welfare, including the welfare of low- and moderate-income communities or families through the provision of housing, services, and jobs.

''(ii) DIRECT INVESTMENTS OR ACQUISITION OF INTEREST IN OTHER COMPANIES.—Investments under clause (i) may be made directly or by purchasing interests in an entity primarily engaged in making such investments.

''(iii) PROHIBITION ON UNLIMITED LIABILITY.—No investment may be made under this subparagraph which would subject a Federal savings association to unlimited liability to any person.

''(iv) SINGLE INVESTMENT LIMITATION TO BE ESTABLISHED BY DIRECTOR.—Subject to clauses (v) and (vi), the Director shall establish, by order or regulation, limits on—

''(I) the amount that any savings association may invest in any 1 project; and

''(II) the aggregate amount of investment of any savings association under this subparagraph.

''(v) FLEXIBLE AGGREGATE INVESTMENT LIMITATION.—The aggregate amount of investments of any savings association under this subparagraph may not exceed an amount equal to the sum of 5 percent of the capital stock of the savings association actually paid in and unimpaired and 5 percent of the unimpaired surplus of the savings association, unless—

''(I) the Director determines that the savings association is adequately capitalized; and

''(II) the Director determines, by order, that the aggregate amount of investments in a higher amount than the limit under this clause would pose no significant risk to the affected Deposit Insurance Fund.

''(vi) MAXIMUM AGGREGATE INVESTMENT LIMITATION.—Notwithstanding clause (v), the aggregate amount of investments of any savings association under this subparagraph may not exceed an amount equal to the sum of 15 percent of the capital stock of the savings association actually paid in and unimpaired and 15 percent of the unimpaired surplus of the savings association.

''(vii) INVESTMENTS NOT SUBJECT TO OTHER LIMITATION ON QUALITY OF INVESTMENTS.—No obligation that a Federal savings association acquires or retains under this subparagraph shall be taken into account for purposes of the limitation contained in section 28(d) of the Federal Deposit Insurance Act on the acquisition and retention of any corporate debt security not of investment grade.

''(viii) APPLICABILITY OF STANDARDS TO EACH INVESTMENT.—The standards and limitations of this subparagraph shall apply to each investment under this subparagraph made by a savings association directly and by its subsidiaries.''.

SA 4465. Mr. VITTER (for himself and Mr. INHOFE) submitted an amendment intended to be proposed by him to the bill H.R. 3221, moving the United States toward greater energy independence and security, developing innovative new technologies, reducing carbon emissions, creating green jobs, protecting consumers, increasing clean renewable energy production, and modernizing our energy infrastructure, and to amend the Internal Revenue Code of 1986 to provide tax incentives for the production of renewable energy and energy conservation; which was ordered to lie on the table; as follows:

At the end, add the following:

TITLE VIII—ENSURING ASSISTANCE IS PROVIDED ONLY TO DESERVING HOMEOWNERS

SEC. 801. LIMITATION ON USE OF FUNDS.

(a) DEFINITION.—For purposes of this section, the term ''housing assistance'' means the following:

(1) Any amounts appropriated, authorized to be appropriated, or otherwise made available under this Act, or any amendment made by this Act.

(2) Any qualified mortgage bond issued by a State or political subdivision or any other entity or organization pursuant to section 143(k)(12) of the Internal Revenue Code, as added by section 602 of this Act.

(3) Any tax credit related to certain home purchases allowable under section 25E of the Internal Revenue Code of 1986, as added by section 603 of this Act.

(b) LIMITATION.—Housing assistance shall not be provided or distributed to, or used by, any homeowner that made—

(1) any material misstatement or misrepresentation on his or her original mortgage application; or

(2) any false statements on his or her original mortgage application to qualify for the home loan.

SA 4466. Mr. VITTER (for himself and Mr. INHOFE) submitted an amendment intended to be proposed by him to the bill H.R. 3221, moving the United States toward greater energy independence and security, developing innovative new technologies, reducing carbon emissions, creating green jobs, protecting consumers, increasing clean renewable energy production, and modernizing our energy infrastructure, and to amend the Internal Revenue Code of 1986 to provide tax incentives for the production of renewable energy and energy conservation; which was ordered to lie on the table; as follows:

At the end, add the following:

TITLE VIII—ENSURING ASSISTANCE IS PROVIDED ONLY TO DESERVING HOMEOWNERS

SEC. 801. LIMITATION ON USE OF FUNDS.

(a) LIMITATION.—None of the amounts appropriated, authorized to be appropriated, or otherwise made available under this Act, or any amendment made by this Act, shall be provided or distributed to, or used by, any homeowner that made—

(1) any material misstatement or misrepresentation on his or her original mortgage application; or

(2) any false statements on his or her original mortgage application to qualify for the home loan.

SA 4467. Mr. ENSIGN submitted an amendment intended to be proposed by him to the bill H.R. 3221, moving the United States toward greater energy independence and security, developing innovative new technologies, reducing carbon emissions, creating green jobs, protecting consumers, increasing clean renewable energy production, and modernizing our energy infrastructure, and to amend the Internal Revenue Code of 1986 to provide tax incentives for the production of renewable energy and energy conservation; which was ordered to lie on the table; as follows:

Strike all after the first word and insert the following:

1. SHORT TITLE; ETC.

(a) SHORT TITLE.—This Act may be cited as the ''Clean Energy Tax Stimulus Act of 2008''.

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

(c) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

TITLE I—EXTENSION OF CLEAN ENERGY PRODUCTION INCENTIVES

SEC. 101. EXTENSION AND MODIFICATION OF RENEWABLE ENERGY PRODUCTION TAX CREDIT.

(a) EXTENSION OF CREDIT.—Each of the following provisions of section 45(d) (relating to qualified facilities) is amended by striking ''January 1, 2009'' and inserting ''January 1, 2010'':

(1) Paragraph (1).

(2) Clauses (i) and (ii) of paragraph (2)(A).

(3) Clauses (i)(I) and (ii) of paragraph (3)(A).

(4) Paragraph (4).

(5) Paragraph (5).

(6) Paragraph (6).

(7) Paragraph (7).

(8) Paragraph (8).

(9) Subparagraphs (A) and (B) of paragraph (9).

(b) PRODUCTION CREDIT FOR ELECTRICITY PRODUCED FROM MARINE RENEWABLES.—

(1) IN GENERAL.—Paragraph (1) of section 45(c) (relating to resources) is amended by striking ''and'' at the end of subparagraph (G), by striking the period at the end of subparagraph (H) and inserting '', and'', and by adding at the end the following new subparagraph:

''(I) marine and hydrokinetic renewable energy.''.

(2) MARINE RENEWABLES.—Subsection (c) of section 45 is amended by adding at the end the following new paragraph:

''(10) MARINE AND HYDROKINETIC RENEWABLE ENERGY.—

''(A) IN GENERAL.—The term 'marine and hydrokinetic renewable energy' means energy derived from—

''(i) waves, tides, and currents in oceans, estuaries, and tidal areas,

''(ii) free flowing water in rivers, lakes, and streams,

''(iii) free flowing water in an irrigation system, canal, or other man-made channel, including projects that utilize nonmechanical structures to accelerate the flow of water for electric power production purposes, or

''(iv) differentials in ocean temperature (ocean thermal energy conversion).

''(B) EXCEPTIONS.—Such term shall not include any energy which is derived from any source which utilizes a dam, diversionary structure (except as provided in subparagraph (A)(iii)), or impoundment for electric power production purposes.''.

(3) DEFINITION OF FACILITY.—Subsection (d) of section 45 is amended by adding at the end the following new paragraph:

''(11) MARINE AND HYDROKINETIC RENEWABLE ENERGY FACILITIES.—In the case of a facility producing electricity from marine and hydrokinetic renewable energy, the term 'qualified facility' means any facility owned by the taxpayer—

''(A) which has a nameplate capacity rating of at least 150 kilowatts, and

''(B) which is originally placed in service on or after the date of the enactment of this paragraph and before January 1, 2010.''.

(4) CREDIT RATE.—Subparagraph (A) of section 45(b)(4) is amended by striking ''or (9)'' and inserting ''(9), or (11)''.

(5) COORDINATION WITH SMALL IRRIGATION POWER.—Paragraph (5) of section 45(d), as amended by subsection (a), is amended by striking ''January 1, 2010'' and inserting ''the date of the enactment of paragraph (11)''.

(c) SALES OF ELECTRICITY TO REGULATED PUBLIC UTILITIES TREATED AS SALES TO UNRELATED PERSONS.—Section 45(e)(4) (relating to related persons) is amended by adding at the end the following new sentence: ''A taxpayer shall be treated as selling electricity to an unrelated person if such electricity is sold to a regulated public utility (as defined in section 7701(a)(33).''.

(d) TRASH FACILITY CLARIFICATION.—Paragraph (7) of section 45(d) is amended—

(1) by striking ''facility which burns'' and inserting ''facility (other than a facility described in paragraph (6)) which uses'', and

(2) by striking ''COMBUSTION''.

(e) EFFECTIVE DATES.—

(1) EXTENSION.—The amendments made by subsection (a) shall apply to property originally placed in service after December 31, 2008.

(2) MODIFICATIONS.—The amendments made by subsections (b) and (c) shall apply to electricity produced and sold after the date of the enactment of this Act, in taxable years ending after such date.

(3) TRASH FACILITY CLARIFICATION.—The amendments made by subsection (d) shall apply to electricity produced and sold before, on, or after December 31, 2007.

SEC. 102. EXTENSION AND MODIFICATION OF SOLAR ENERGY AND FUEL CELL INVESTMENT TAX CREDIT.

(a) EXTENSION OF CREDIT.—

(1) SOLAR ENERGY PROPERTY.—Paragraphs (2)(A)(i)(II) and (3)(A)(ii) of section 48(a) (relating to energy credit) are each amended by striking ''January 1, 2009'' and inserting ''January 1, 2017''.

(2) FUEL CELL PROPERTY.—Subparagraph (E) of section 48(c)(1) (relating to qualified fuel cell property) is amended by striking ''December 31, 2008'' and inserting ''December 31, 2017''.

(3) QUALIFIED MICROTURBINE PROPERTY.—Subparagraph (E) of section 48(c)(2) (relating to qualified microturbine property) is amended by striking ''December 31, 2008'' and inserting ''December 31, 2017''.

(b) ALLOWANCE OF ENERGY CREDIT AGAINST ALTERNATIVE MINIMUM TAX.—Subparagraph (B) of section 38(c)(4) (relating to specified credits) is amended by striking ''and'' at the end of clause (iii), by striking the period at the end of clause (iv) and inserting '', and'', and by adding at the end the following new clause:

''(v) the credit determined under section 46 to the extent that such credit is attributable to the energy credit determined under section 48.''.

(c) REPEAL OF DOLLAR PER KILOWATT LIMITATION FOR FUEL CELL PROPERTY.—

(1) IN GENERAL.—Section 48(c)(1) (relating to qualified fuel cell), as amended by subsection (a)(2), is amended by striking subparagraph (B) and by redesignating subparagraphs (C), (D), and (E) as subparagraphs (B), (C), and (D), respectively.

(2) CONFORMING AMENDMENT.—Section 48(a)(1) is amended by striking ''paragraphs (1)(B) and (2)(B) of subsection (c)'' and inserting ''subsection (c)(2)(B)''.

(d) PUBLIC ELECTRIC UTILITY PROPERTY TAKEN INTO ACCOUNT.—

(1) IN GENERAL.—Paragraph (3) of section 48(a) is amended by striking the second sentence thereof.

(2) CONFORMING AMENDMENTS.—

(A) Paragraph (1) of section 48(c), as amended by this section, is amended by striking subparagraph (C) and redesignating subparagraph (D) as subparagraph (C).

(B) Paragraph (2) of section 48(c), as amended by subsection (a)(3), is amended by striking subparagraph (D) and redesignating subparagraph (E) as subparagraph (D).

(e) EFFECTIVE DATES.—

(1) EXTENSION.—The amendments made by subsection (a) shall take effect on the date of the enactment of this Act.

(2) ALLOWANCE AGAINST ALTERNATIVE MINIMUM TAX.—The amendments made by subsection (b) shall apply to credits determined under section 46 of the Internal Revenue Code of 1986 in taxable years beginning after the date of the enactment of this Act and to carrybacks of such credits.

(3) FUEL CELL PROPERTY AND PUBLIC ELECTRIC UTILITY PROPERTY.—The amendments made by subsections (c) and (d) shall apply to periods after the date of the enactment of this Act, in taxable years ending after such date, under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1986 (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990).

SEC. 103. EXTENSION AND MODIFICATION OF RESIDENTIAL ENERGY EFFICIENT PROPERTY CREDIT.

(a) EXTENSION.—Section 25D(g) (relating to termination) is amended by striking ''December 31, 2008'' and inserting ''December 31, 2009''.

(b) NO DOLLAR LIMITATION FOR CREDIT FOR SOLAR ELECTRIC PROPERTY.—

(1) IN GENERAL.—Section 25D(b)(1) (relating to maximum credit) is amended by striking subparagraph (A) and by redesignating subparagraphs (B) and (C) as subparagraphs (A) and (B), respectively.

(2) CONFORMING AMENDMENTS.—Section 25D(e)(4) is amended—

(A) by striking clause (i) in subparagraph (A),

(B) by redesignating clauses (ii) and (iii) in subparagraph (A) as clauses (i) and (ii), respectively, and

(C) by striking '', (2),'' in subparagraph (C).

(c) CREDIT ALLOWED AGAINST ALTERNATIVE MINIMUM TAX.—

(1) IN GENERAL.—Subsection (c) of section 25D is amended to read as follows:

''(c) LIMITATION BASED ON AMOUNT OF TAX; CARRYFORWARD OF UNUSED CREDIT.—

''(1) LIMITATION BASED ON AMOUNT OF TAX.—In the case of a taxable year to which section 26(a)(2) does not apply, the credit allowed under subsection (a) for the taxable year shall not exceed the excess of—

''(A) the sum of the regular tax liability (as defined in section 26(b)) plus the tax imposed by section 55, over

''(B) the sum of the credits allowable under this subpart (other than this section) and section 27 for the taxable year.

''(2) CARRYFORWARD OF UNUSED CREDIT.—

''(A) RULE FOR YEARS IN WHICH ALL PERSONAL CREDITS ALLOWED AGAINST REGULAR AND ALTERNATIVE MINIMUM TAX.—In the case of a taxable year to which section 26(a)(2) applies, if the credit allowable under subsection (a) exceeds the limitation imposed by section 26(a)(2) for such taxable year reduced by the sum of the credits allowable under this subpart (other than this section), such excess shall be carried to the succeeding taxable year and added to the credit allowable under subsection (a) for such succeeding taxable year.

''(B) RULE FOR OTHER YEARS.—In the case of a taxable year to which section 26(a)(2) does not apply, if the credit allowable under subsection (a) exceeds the limitation imposed by paragraph (1) for such taxable year, such excess shall be carried to the succeeding taxable year and added to the credit allowable under subsection (a) for such succeeding taxable year.''.

(2) CONFORMING AMENDMENTS.—

(A) Section 23(b)(4)(B) is amended by inserting ''and section 25D'' after ''this section''.

(B) Section 24(b)(3)(B) is amended by striking ''and 25B'' and inserting '', 25B, and 25D''.

(C) Section 25B(g)(2) is amended by striking ''section 23'' and inserting ''sections 23 and 25D''.

(D) Section 26(a)(1) is amended by striking ''and 25B'' and inserting ''25B, and 25D''.

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxable years beginning after December 31, 2007.

(2) APPLICATION OF EGTRRA SUNSET.—The amendments made by subparagraphs (A) and (B) of subsection (c)(2) shall be subject to title IX of the Economic Growth and Tax Relief Reconciliation Act of 2001 in the same manner as the provisions of such Act to which such amendments relate.

SEC. 104. EXTENSION AND MODIFICATION OF CREDIT FOR CLEAN RENEWABLE ENERGY BONDS.

(a) EXTENSION.—Section 54(m) (relating to termination) is amended by striking ''December 31, 2008'' and inserting ''December 31, 2009''.

(b) INCREASE IN NATIONAL LIMITATION.—Section 54(f) (relating to limitation on amount of bonds designated) is amended—

(1) by inserting '', and for the period beginning after the date of the enactment of the Clean Energy Tax Stimulus Act of 2008 and ending before January 1, 2010, $400,000,000'' after ''$1,200,000,000'' in paragraph (1),

(2) by striking ''$750,000,000 of the'' in paragraph (2) and inserting ''$750,000,000 of the $1,200,000,000'', and

(3) by striking ''bodies'' in paragraph (2) and inserting ''bodies, and except that the Secretary may not allocate more than ⅓ of the $400,000,000 national clean renewable energy bond limitation to finance qualified projects of qualified borrowers which are public power providers nor more than ⅓ of such limitation to finance qualified projects of qualified borrowers which are mutual or cooperative electric companies described in section 501(c)(12) or section 1381(a)(2)(C)''.

(c) PUBLIC POWER PROVIDERS DEFINED.—Section 54(j) is amended—

(1) by adding at the end the following new paragraph:

''(6) PUBLIC POWER PROVIDER.—The term 'public power provider' means a State utility with a service obligation, as such terms are defined in section 217 of the Federal Power Act (as in effect on the date of the enactment of this paragraph).'', and

(2) by inserting ''; PUBLIC POWER PROVIDER'' before the period at the end of the heading.

(d) TECHNICAL AMENDMENT.—The third sentence of section 54(e)(2) is amended by striking ''subsection (l)(6)'' and inserting ''subsection (l)(5)''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to bonds issued after the date of the enactment of this Act.

SEC. 105. EXTENSION OF SPECIAL RULE TO IMPLEMENT FERC RESTRUCTURING POLICY.

(a) QUALIFYING ELECTRIC TRANSMISSION TRANSACTION.—

(1) IN GENERAL.—Section 451(i)(3) (defining qualifying electric transmission transaction) is amended by striking ''January 1, 2008'' and inserting ''January 1, 2010''.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to transactions after December 31, 2007.

(b) INDEPENDENT TRANSMISSION COMPANY.—

(1) IN GENERAL.—Section 451(i)(4)(B)(ii) (defining independent transmission company) is amended by striking ''December 31, 2007'' and inserting ''the date which is 2 years after the date of such transaction''.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall take effect as if included in the amendments made by section 909 of the American Jobs Creation Act of 2004.

TITLE II—EXTENSION OF INCENTIVES TO IMPROVE ENERGY EFFICIENCY

SEC. 201. EXTENSION AND MODIFICATION OF CREDIT FOR ENERGY EFFICIENCY IMPROVEMENTS TO EXISTING HOMES.

(a) EXTENSION OF CREDIT.—Section 25C(g) (relating to termination) is amended by striking ''December 31, 2007'' and inserting ''December 31, 2009''.

(b) QUALIFIED BIOMASS FUEL PROPERTY.—

(1) IN GENERAL.—Section 25C(d)(3) is amended—

(A) by striking ''and'' at the end of subparagraph (D),

(B) by striking the period at the end of subparagraph (E) and inserting '', and'', and

(C) by adding at the end the following new subparagraph:

''(F) a stove which uses the burning of biomass fuel to heat a dwelling unit located in the United States and used as a residence by the taxpayer, or to heat water for use in such a dwelling unit, and which has a thermal efficiency rating of at least 75 percent.''.

(2) BIOMASS FUEL.—Section 25C(d) (relating to residential energy property expenditures) is amended by adding at the end the following new paragraph:

''(6) BIOMASS FUEL.—The term 'biomass fuel' means any plant-derived fuel available on a renewable or recurring basis, including agricultural crops and trees, wood and wood waste and residues (including wood pellets), plants (including aquatic plants), grasses, residues, and fibers.''.

(c) MODIFICATIONS OF STANDARDS FOR ENERGY-EFFICIENT BUILDING PROPERTY.—

(1) ELECTRIC HEAT PUMPS.—Subparagraph (B) of section 25C(d)(3) is amended to read as follows:

''(A) an electric heat pump which achieves the highest efficiency tier established by the Consortium for Energy Efficiency, as in effect on January 1, 2008.''.

(2) CENTRAL AIR CONDITIONERS.—Section 25C(d)(3)(D) is amended by striking ''2006'' and inserting ''2008''.

(3) WATER HEATERS.—Subparagraph (E) of section 25C(d) is amended to read as follows:

''(E) a natural gas, propane, or oil water heater which has either an energy factor of at least 0.80 or a thermal efficiency of at least 90 percent.''.

(4) OIL FURNACES AND HOT WATER BOILERS.—Paragraph (4) of section 25C(d) is amended to read as follows:

''(4) QUALIFIED NATURAL GAS, PROPANE, AND OIL FURNACES AND HOT WATER BOILERS.—

''(A) QUALIFIED NATURAL GAS FURNACE.—The term 'qualified natural gas furnace' means any natural gas furnace which achieves an annual fuel utilization efficiency rate of not less than 95.

''(B) QUALIFIED NATURAL GAS HOT WATER BOILER.—The term 'qualified natural gas hot water boiler' means any natural gas hot water boiler which achieves an annual fuel utilization efficiency rate of not less than 90.

''(C) QUALIFIED PROPANE FURNACE.—The term 'qualified propane furnace' means any

propane furnace which achieves an annual fuel utilization efficiency rate of not less than 95.

''(D) QUALIFIED PROPANE HOT WATER BOILER.—The term 'qualified propane hot water boiler' means any propane hot water boiler which achieves an annual fuel utilization efficiency rate of not less than 90.

''(E) QUALIFIED OIL FURNACES.—The term 'qualified oil furnace' means any oil furnace which achieves an annual fuel utilization efficiency rate of not less than 90.

''(F) QUALIFIED OIL HOT WATER BOILER.—The term 'qualified oil hot water boiler' means any oil hot water boiler which achieves an annual fuel utilization efficiency rate of not less than 90.''.

(d) EFFECTIVE DATE.—The amendments made this section shall apply to expenditures made after December 31, 2007.

SEC. 202. EXTENSION AND MODIFICATION OF TAX CREDIT FOR ENERGY EFFICIENT NEW HOMES.

(a) EXTENSION OF CREDIT.—Subsection (g) of section 45L (relating to termination) is amended by striking ''December 31, 2008'' and inserting ''December 31, 2010''.

(b) ALLOWANCE FOR CONTRACTOR'S PERSONAL RESIDENCE.—Subparagraph (B) of section 45L(a)(1) is amended to read as follows:

''(B)(i) acquired by a person from such eligible contractor and used by any person as a residence during the taxable year, or

''(ii) used by such eligible contractor as a residence during the taxable year.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to homes acquired after December 31, 2008.

SEC. 203. EXTENSION AND MODIFICATION OF ENERGY EFFICIENT COMMERCIAL BUILDINGS DEDUCTION.

(a) EXTENSION.—Section 179D(h) (relating to termination) is amended by striking ''December 31, 2008'' and inserting ''December 31, 2009''.

(b) ADJUSTMENT OF MAXIMUM DEDUCTION AMOUNT.—

(1) IN GENERAL.—Subparagraph (A) of section 179D(b)(1) (relating to maximum amount of deduction) is amended by striking ''$1.80'' and inserting ''$2.25''.

(2) PARTIAL ALLOWANCE.—Paragraph (1) of section 179D(d) is amended—

(A) by striking ''$.60'' and inserting ''$0.75'', and

(B) by striking ''$1.80'' and inserting ''$2.25''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after the date of the enactment of this Act.

SEC. 204. MODIFICATION AND EXTENSION OF ENERGY EFFICIENT APPLIANCE CREDIT FOR APPLIANCES PRODUCED AFTER 2007.

(a) IN GENERAL.—Subsection (b) of section 45M (relating to applicable amount) is amended to read as follows:

''(b) APPLICABLE AMOUNT.—For purposes of subsection (a)—

''(1) DISHWASHERS.—The applicable amount is—

''(A) $45 in the case of a dishwasher which is manufactured in calendar year 2008 or 2009 and which uses no more than 324 kilowatt hours per year and 5.8 gallons per cycle, and

''(B) $75 in the case of a dishwasher which is manufactured in calendar year 2008, 2009, or 2010 and which uses no more than 307 kilowatt hours per year and 5.0 gallons per cycle (5.5 gallons per cycle for dishwashers designed for greater than 12 place settings).

''(2) CLOTHES WASHERS.—The applicable amount is—

''(A) $75 in the case of a residential top-loading clothes washer manufactured in calendar year 2008 which meets or exceeds a 1.72 modified energy factor and does not exceed a 8.0 water consumption factor,

''(B) $125 in the case of a residential top-loading clothes washer manufactured in calendar year 2008 or 2009 which meets or exceeds a 1.8 modified energy factor and does not exceed a 7.5 water consumption factor,

''(C) $150 in the case of a residential or commercial clothes washer manufactured in calendar year 2008, 2009, or 2010 which meets or exceeds 2.0 modified energy factor and does not exceed a 6.0 water consumption factor, and

''(D) $250 in the case of a residential or commercial clothes washer manufactured in calendar year 2008, 2009, or 2010 which meets or exceeds 2.2 modified energy factor and does not exceed a 4.5 water consumption factor.

''(3) REFRIGERATORS.—The applicable amount is—

''(A) $50 in the case of a refrigerator which is manufactured in calendar year 2008, and consumes at least 20 percent but not more than 22.9 percent less kilowatt hours per year than the 2001 energy conservation standards,

''(B) $75 in the case of a refrigerator which is manufactured in calendar year 2008 or 2009, and consumes at least 23 percent but no more than 24.9 percent less kilowatt hours per year than the 2001 energy conservation standards,

''(C) $100 in the case of a refrigerator which is manufactured in calendar year 2008, 2009, or 2010, and consumes at least 25 percent but not more than 29.9 percent less kilowatt hours per year than the 2001 energy conservation standards, and

''(D) $200 in the case of a refrigerator manufactured in calendar year 2008, 2009, or 2010 and which consumes at least 30 percent less energy than the 2001 energy conservation standards.''.

(b) ELIGIBLE PRODUCTION.—

(1) SIMILAR TREATMENT FOR ALL APPLIANCES.—Subsection (c) of section 45M (relating to eligible production) is amended—

(A) by striking paragraph (2),

(B) by striking ''(1) IN GENERAL'' and all that follows through ''the eligible'' and inserting ''The eligible'', and

(C) by moving the text of such subsection in line with the subsection heading and redesignating subparagraphs (A) and (B) as paragraphs (1) and (2), respectively.

(2) MODIFICATION OF BASE PERIOD.—Paragraph (2) of section 45M(c), as amended by paragraph (1) of this section, is amended by striking ''3-calendar year'' and inserting ''2-calendar year''.

(c) TYPES OF ENERGY EFFICIENT APPLIANCES.—Subsection (d) of section 45M (defining types of energy efficient appliances) is amended to read as follows:

''(d) TYPES OF ENERGY EFFICIENT APPLIANCE.—For purposes of this section, the types of energy efficient appliances are—

''(1) dishwashers described in subsection (b)(1),

''(2) clothes washers described in subsection (b)(2), and

''(3) refrigerators described in subsection (b)(3).''.

(d) AGGREGATE CREDIT AMOUNT ALLOWED.—

(1) INCREASE IN LIMIT.—Paragraph (1) of section 45M(e) (relating to aggregate credit amount allowed) is amended to read as follows:

''(1) AGGREGATE CREDIT AMOUNT ALLOWED.—The aggregate amount of credit allowed under subsection (a) with respect to a taxpayer for any taxable year shall not exceed $75,000,000 reduced by the amount of the credit allowed under subsection (a) to the taxpayer (or any predecessor) for all prior taxable years beginning after December 31, 2007.''.

(2) EXCEPTION FOR CERTAIN REFRIGERATOR AND CLOTHES WASHERS.—Paragraph (2) of section 45M(e) is amended to read as follows:

''(2) AMOUNT ALLOWED FOR CERTAIN REFRIGERATORS AND CLOTHES WASHERS.—Refrigerators described in subsection (b)(3)(D) and clothes washers described in subsection (b)(2)(D) shall not be taken into account under paragraph (1).''.

(e) QUALIFIED ENERGY EFFICIENT APPLIANCES.—

(1) IN GENERAL.—Paragraph (1) of section 45M(f) (defining qualified energy efficient appliance) is amended to read as follows:

''(1) QUALIFIED ENERGY EFFICIENT APPLIANCE.—The term 'qualified energy efficient appliance' means—

''(A) any dishwasher described in subsection (b)(1),

''(B) any clothes washer described in subsection (b)(2), and

''(C) any refrigerator described in subsection (b)(3).''.

(2) CLOTHES WASHER.—Section 45M(f)(3) (defining clothes washer) is amended by inserting ''commercial'' before ''residential'' the second place it appears.

(3) TOP-LOADING CLOTHES WASHER.—Subsection (f) of section 45M (relating to definitions) is amended by redesignating paragraphs (4), (5), (6), and (7) as paragraphs (5), (6), (7), and (8), respectively, and by inserting after paragraph (3) the following new paragraph:

''(4) TOP-LOADING CLOTHES WASHER.—The term 'top-loading clothes washer' means a clothes washer which has the clothes container compartment access located on the top of the machine and which operates on a vertical axis.''.

(4) REPLACEMENT OF ENERGY FACTOR.—Section 45M(f)(6), as redesignated by paragraph (3), is amended to read as follows:

''(6) MODIFIED ENERGY FACTOR.—The term 'modified energy factor' means the modified energy factor established by the Department of Energy for compliance with the Federal energy conservation standard.''.

(5) GALLONS PER CYCLE; WATER CONSUMPTION FACTOR.—Section 45M(f) (relating to definitions), as amended by paragraph (3), is amended by adding at the end the following:

''(9) GALLONS PER CYCLE.—The term 'gallons per cycle' means, with respect to a dishwasher, the amount of water, expressed in gallons, required to complete a normal cycle of a dishwasher.

''(10) WATER CONSUMPTION FACTOR.—The term 'water consumption factor' means, with respect to a clothes washer, the quotient of the total weighted per-cycle water consumption divided by the cubic foot (or liter) capacity of the clothes washer.''.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to appliances produced after December 31, 2007.

SA 4468. Mr. KYL submitted an amendment intended to be proposed by him to the bill H.R. 3221, moving the United States toward greater energy independence and security, developing innovative new technologies, reducing carbon emissions, creating green jobs, protecting consumers, increasing clean renewable energy production, and modernizing our energy infrastructure, and to amend the Internal Revenue Code of 1986 to provide tax incentives for the production of renewable energy and energy conservation; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

TITLE —EXTENSION OF EXPIRING TAX PROVISIONS

SEC. -00. AMENDMENT OF 1986 CODE.

Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

Subtitle A—Individual Tax Provisions

PART I—PROVISIONS EXPIRING IN 2007

SEC. -01. NONBUSINESS ENERGY PROPERTY.

(a) EXTENSION OF CREDIT.—Section 25C(g) (relating to termination) is amended by striking ''December 31, 2007'' and inserting ''December 31, 2009''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to property placed in service after December 31, 2007.

SEC. -02. ELECTION TO INCLUDE COMBAT PAY AS EARNED INCOME FOR PURPOSES OF THE EARNED INCOME CREDIT.

(a) IN GENERAL.—Subclause (II) of section 32(c)(2)(B)(vi) (defining earned income) is amended by striking ''January 1, 2008'' and inserting ''January 1, 2010''.

(b) CONFORMING AMENDMENT.—Paragraph (4) of section 6428, as amended by the Economic Stimulus Act of 2008, is amended to read as follows:

''(4) EARNED INCOME.—The term 'earned income' has the meaning set forth in section 32(c)(2) except that such term shall not include net earnings from self-employment which are not taken into account in computing taxable income.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after December 31, 2007.

SEC. -03. DEDUCTION FOR CERTAIN EXPENSES OF ELEMENTARY AND SECONDARY SCHOOL TEACHERS.

(a) IN GENERAL.—Subparagraph (D) of section 62(a)(2) (relating to certain expenses of elementary and secondary school teachers) is amended by striking ''or 2007'' and inserting ''2007, 2008, or 2009''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2007.

SEC. -04. DISTRIBUTIONS FROM RETIREMENT PLANS TO INDIVIDUALS CALLED TO ACTIVE DUTY.

(a) IN GENERAL.—Clause (iv) of section 72(t)(2)(G) is amended by striking ''December 31, 2007'' and inserting ''January 1, 2010''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to individuals ordered or called to active duty on or after December 31, 2007.

SEC. -05. MODIFICATION OF MORTGAGE REVENUE BONDS FOR VETERANS.

(a) QUALIFIED MORTGAGE BONDS USED TO FINANCE RESIDENCES FOR VETERANS WITHOUT REGARD TO FIRST-TIME HOMEBUYER REQUIREMENT.—Subparagraph (D) of section 143(d)(2) (relating to exceptions) is amended by inserting ''and after the date of the enactment of the Foreclosure Prevention Act and before January 1, 2010'' after ''January 1, 2008''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to bonds issued after the date of the enactment of this Act.

SEC. -06. DEDUCTION FOR STATE AND LOCAL SALES TAXES.

(a) IN GENERAL.—Subparagraph (I) of section 164(b)(5) is amended by striking ''January 1, 2008'' and inserting ''January 1, 2010''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2007.

SEC. -07. ARCHER MSAS.

(a) IN GENERAL.—Subsection (i) of section 220 (relating to limitation on number of taxpayers having Archer MSAs) is amended—

(1) by striking ''2007'' each place it appears in paragraphs (2) and (3)(B) and inserting ''2009'',

(2) by striking ''2007'' in the heading of paragraph (3)(B) and inserting ''2009''.

(b) CONFORMING AMENDMENTS.—Subsection (j) of section 220 is amended—

(1) by striking ''or 2006'' each place it appears in paragraph (2) and inserting ''2006, 2007, or 2008'',

(2) by striking ''OR 2006'' in the heading for paragraph (2) and inserting ''2006, 2007, OR 2008'', and

(3) by striking ''and 2006'' in paragraph (4) and inserting ''2006, 2007, and 2008''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to calendar years beginning after December 31, 2007.

SEC. -08. DEDUCTION OF QUALIFIED TUITION AND RELATED EXPENSES.

(a) IN GENERAL.—Subsection (e) of section 222 (relating to termination) is amended by striking ''December 31, 2007'' and inserting ''December 31, 2009''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2007.

SEC. -09. TAX-FREE DISTRIBUTIONS FROM INDIVIDUAL RETIREMENT PLANS FOR CHARITABLE PURPOSES.

(a) IN GENERAL.—Subparagraph (F) of section 408(d)(8) (relating to termination) is amended by striking ''December 31, 2007'' and inserting ''December 31, 2009''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to distributions made in taxable years beginning after December 31, 2007.

SEC. -10. STOCK IN RIC FOR PURPOSES OF DETERMINING ESTATES OF NONRESIDENTS NOT CITIZENS.

(a) IN GENERAL.—Paragraph (3) of section 2105(d) (relating to stock in a RIC) is amended by striking ''December 31, 2007'' and inserting ''December 31, 2009''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to decedents dying after December 31, 2007.

PART II—PROVISIONS EXPIRING IN 2008

SEC. -11. RESIDENTIAL ENERGY EFFICIENT PROPERTY.

Subsection (g) of section 25D (relating to termination) is amended by striking ''December 31, 2008'' and inserting ''December 31, 2009''.

Subtitle B—Business Tax Provisions

PART I—PROVISIONS EXPIRING IN 2007

SEC. -21. RESEARCH ACTIVITIES.

(a) IN GENERAL.—Section 41(h) (relating to termination) is amended by striking ''December 31, 2007'' and inserting ''December 31, 2009'' in paragraph (1)(B).

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to amounts paid or incurred after December 31, 2007.

SEC. -22. INDIAN EMPLOYMENT CREDIT.

(a) IN GENERAL.—Subsection (f) of section 45A (relating to termination) is amended by striking ''December 31, 2007'' and inserting ''December 31, 2009''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2007.

SEC. -23. RAILROAD TRACK MAINTENANCE.

(a) IN GENERAL.—Subsection (f) of section 45G (relating to application of section) is amended by striking ''January 1, 2008'' and inserting ''January 1, 2010''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to expenditures paid or incurred during taxable years beginning after December 31, 2007.

SEC. -24. PRODUCTION OF FUEL FROM A NONCONVENTIONAL SOURCE AT CERTAIN FACILITIES.

(a) IN GENERAL.—Subsection (f)(1)(B) of section 45K (relating to extension for certain facilities) is amended by striking ''January 1, 2008'' and inserting ''January 1, 2010''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to fuels produced and sold after December 31, 2007.

SEC. -25. ENERGY EFFICIENT APPLIANCES.

(a) IN GENERAL.—Subsection (b) of section 45M (relating to applicable amount) is amended by striking ''calendar year 2006 or 2007'' each place it appears in paragraphs (1)(A)(i), (1)(B)(i), (1)(C)(ii)(I), and (1)(C)(iii)(I), and inserting ''calendar year 2006, 2007, 2008, or 2009''.

(b) RESTART OF CREDIT LIMITATION.—Paragraph (1) of section 45M(e) (relating to aggregate credit amount allowed) is amended by inserting ''beginning after December 31, 2007'' after ''for all prior taxable years''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to appliances produced after December 31, 2007.

SEC. -26. 15-YEAR STRAIGHT-LINE COST RECOVERY FOR QUALIFIED LEASEHOLD IMPROVEMENTS AND QUALIFIED RESTAURANT IMPROVEMENTS.

(a) IN GENERAL.—Clauses (iv) and (v) of section 168(e)(3)(E) (relating to 15-year property) are each amended by striking ''January 1, 2008'' and inserting ''January 1, 2010''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after December 31, 2007.

SEC. -27. SEVEN-YEAR COST RECOVERY PERIOD FOR MOTORSPORTS RACING TRACK FACILITY.

(a) IN GENERAL.—Subparagraph (D) of section 168(i)(15) (relating to termination) is amended by striking ''December 31, 2007'' and inserting ''December 31, 2009''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to property placed in service after December 31, 2007.

SEC. -28. ACCELERATED DEPRECIATION FOR BUSINESS PROPERTY ON INDIAN RESERVATION.

(a) IN GENERAL.—Paragraph (8) of section 168(j) (relating to termination) is amended by striking ''December 31, 2007'' and inserting ''December 31, 2009''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to property placed in service after December 31, 2007.

SEC. -29. QUALIFIED CONSERVATION CONTRIBUTIONS.

(a) IN GENERAL.—Clause (vi) of section 170(b)(1)(E) (relating to termination) is amended by striking ''December 31, 2007'' and inserting ''December 31, 2009''.

(b) CONTRIBUTIONS BY CORPORATE FARMERS AND RANCHERS.—Clause (iii) of section 170(b)(2)(B) (relating to termination) is amended by striking ''December 31, 2007'' and inserting ''December 31, 2009''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to contributions made in taxable years beginning after December 31, 2007.

SEC. -30. ENHANCED CHARITABLE DEDUCTION FOR CONTRIBUTIONS OF FOOD INVENTORY.

(a) IN GENERAL.—Clause (iv) of section 170(e)(3)(C) (relating to termination) is amended by striking ''December 31, 2007'' and inserting ''December 31, 2009''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to contributions made after December 31, 2007.

SEC. -31. ENHANCED CHARITABLE DEDUCTION FOR CONTRIBUTIONS OF BOOK INVENTORY.

(a) IN GENERAL.—Clause (iv) of section 170(e)(3)(D) (relating to termination) is amended by striking ''December 31, 2007'' and inserting ''December 31, 2009''.

(b) CLERICAL AMENDMENT.—Clause (iii) of section 170(e)(3)(D) (relating to certification by donee) is amended by inserting ''of books'' after ''to any contribution''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to contributions made after December 31, 2007.

SEC. -32. ENHANCED CHARITABLE DEDUCTION FOR CORPORATE CONTRIBUTIONS OF COMPUTER EQUIPMENT FOR EDUCATIONAL PURPOSES.

(a) IN GENERAL.—Subparagraph (G) of section 170(e)(6) (relating to termination) is amended by striking ''December 31, 2007'' and inserting ''December 31, 2009''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to contributions made after December 31, 2007.

SEC. -33. EXPENSING OF ENVIRONMENTAL REMEDIATION COSTS.

(a) IN GENERAL.—Subsection (h) of section 198 (relating to termination) is amended by striking ''December 31, 2007'' and inserting ''December 31, 2009''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to expenditures paid or incurred after December 31, 2007.

SEC. -34. DEDUCTION ALLOWABLE WITH RESPECT TO INCOME ATTRIBUTABLE TO DOMESTIC PRODUCTION ACTIVITIES IN PUERTO RICO.

(a) IN GENERAL.—Subparagraph (C) of section 199(d)(8) (relating to termination) is amended—

(1) by striking ''first 2 taxable years'' and inserting ''first 4 taxable years'', and

(2) by striking ''January 1, 2008'' and inserting ''January 1, 2010''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2007.

SEC. -35. SPECIAL RULE FOR SALES OR DISPOSITIONS TO IMPLEMENT FERC OR STATE ELECTRIC RESTRUCTURING POLICY.

(a) IN GENERAL.—Paragraph (3) of section 451(i) (relating to qualifying electric transmission transaction) is amended by striking ''January 1, 2008'' and inserting ''January 1, 2010''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to transactions occurring after December 31, 2007.

SEC. -36. MODIFICATION OF TAX TREATMENT OF CERTAIN PAYMENTS TO CONTROLLING EXEMPT ORGANIZATIONS.

(a) IN GENERAL.—Clause (iv) of section 512(b)(13)(E) (relating to termination) is amended by striking ''December 31, 2007'' and inserting ''December 31, 2009''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to payments received or accrued after December 31, 2007.

SEC. -37. SUSPENSION OF TAXABLE INCOME LIMIT WITH RESPECT TO MARGINAL WELLS.

(a) IN GENERAL.—Subparagraph (H) of section 613A(c)(6) (relating to temporary suspension of taxable income limit with respect to marginal production) is amended by striking ''January 1, 2008'' and inserting ''January 1, 2010''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2007.

SEC. -38. TREATMENT OF CERTAIN DIVIDENDS OF REGULATED INVESTMENT COMPANIES.

(a) INTEREST-RELATED DIVIDENDS.—Subparagraph (C) of section 871(k)(1) (defining interest-related dividend) is amended by striking ''December 31, 2007'' and inserting ''December 31, 2009''.

(b) SHORT-TERM CAPITAL GAIN DIVIDENDS.—Subparagraph (C) of section 871(k)(2) (defining short-term capital gain dividend) is amended by striking ''December 31, 2007'' and inserting ''December 31, 2009''.

(c) DISPOSITION OF INVESTMENT IN UNITED STATES REAL PROPERTY.—Clause (ii) of section 897(h)(4)(A) (relating to termination) is amended by striking ''December 31, 2007'' and inserting ''December 31, 2009''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to dividends with respect to taxable years of regulated investment companies beginning after December 31, 2007.

SEC. -39. BASIS ADJUSTMENT TO STOCK OF S CORPORATIONS MAKING CHARITABLE CONTRIBUTIONS OF PROPERTY.

(a) IN GENERAL.—The last sentence of section 1367(a)(2) (relating to decreases in basis) is amended by striking ''December 31, 2007'' and inserting ''December 31, 2009''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to contributions made in taxable years beginning after December 31, 2007.

SEC. -40. EXTENSION OF QUALIFIED ZONE ACADEMY BONDS.

(a) IN GENERAL.—Paragraph (1) of section 1397E(e) is amended by striking ''and 2007'' and inserting ''2007, 2008, and 2009''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to obligations issued after the date of the enactment of this Act.

SEC. -41. TAX INCENTIVES FOR INVESTMENT IN THE DISTRICT OF COLUMBIA.

(a) DESIGNATION OF D.C. ENTERPRISE ZONE.—Subsection (f) of section 1400 (relating to time for which designation applicable) is amended by striking ''December 31, 2007'' each place it appears in paragraphs (1) and (2) and inserting ''December 31, 2009''.

(b) TAX-EXEMPT D.C. EMPOWERMENT ZONE BONDS.—Subsection (b) of section 1400A (relating to period of applicability) is amended by inserting '', and after the date of the enactment of the Foreclosure Prevention Act and before Janaury 1, 2009'' after ''December 31, 2007''.

(c) ACQUISITION DATE FOR ELIGIBILITY FOR ZERO-PERCENT CAPITAL GAINS RATE FOR INVESTMENT IN D.C..—Subsection (b) of section 1400B (relating to D.C. zone asset) is amended by striking ''January 1, 2008'' each place it appears in paragraphs (2)(A)(i), (3)(A), (4)(A)(i), and (4)(B)(i)(I) and inserting ''January 1, 2010''.

(d) TAX CREDIT FOR FIRST-TIME D.C. HOMEBUYERS.—Subsection (i) of section 1400C (relating to application of section) is amended by striking ''January 1, 2008'' and inserting ''January 1, 2010''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to transactions after December 31, 2007.

PART II—PROVISIONS EXPIRING IN 2008

SEC. -46. BIODIESEL AND RENEWABLE DIESEL USED AS FUEL.

Subsection (g) of section 40A (relating to termination) is amended by striking ''December 31, 2008'' and inserting ''December 31, 2009''.

SEC. -47. ELECTRICITY PRODUCED FROM CERTAIN RENEWABLE RESOURCES; PRODUCTION OF REFINED COAL AND INDIAN COAL.

Section 45(d) (relating to qualified facilities) is amended by striking ''January 1, 2009'' each place it appears in paragraphs (1), (2), (3), (4), (5), (6), (7), (8), (9), and (10) and inserting ''January 1, 2010''.

SEC. -48. NEW MARKETS TAX CREDIT.

Subparagraph (D) of section 45D(f)(1) (relating to national limitation on amount of investments designated) is amended by striking ''and 2008'' and inserting ''2008, and 2009''.

SEC. -49. EXTENSION OF NEW ENERGY EFFICIENT HOME CREDIT.

Subsection (g) of section 45L (relating to termination) is amended by striking ''December 31, 2008'' and inserting ''December 31, 2009''.

SEC. -50. EXTENSION OF MINE RESCUE TEAM TRAINING CREDIT.

Section 45N(e) (relating to termination) is amended by striking ''December 31, 2008'' and inserting ''December 31, 2009''.

SEC. -51. EXTENSION OF ENERGY CREDIT.

(a) SOLAR ENERGY PROPERTY.—Paragraphs (2)(A)(i)(II) and (3)(A)(ii) of section 48(a) (relating to energy credit) are each amended by striking ''January 1, 2009'' and inserting ''January 1, 2010''.

(b) FUEL CELL PROPERTY.—Subparagraph (E) of section 48(c)(1) (relating to qualified fuel cell property) is amended by striking ''December 31, 2008'' and inserting ''December 31, 2009''.

(c) MICROTURBINE PROPERTY.—Subparagraph (E) of section 48(c)(2) (relating to qualified microturbine property) is amended by striking ''December 31, 2008'' and inserting ''December 31, 2009''.

SEC. -52. 5-YEAR NOL CARRYBACK FOR CERTAIN ELECTRIC UTILITY COMPANIES.

Subparagraph (I)(i) of section 172(b)(1) (relating to transmission property and pollution control investment) is amended—

(1) by striking ''January 1, 2009'' and inserting ''January 1, 2010'', and

(2) by striking ''January 1, 2006'' and inserting ''January 1, 2007''.

SEC. -53. EXTENSION OF ENERGY EFFICIENT COMMERCIAL BUILDINGS DEDUCTION.

Section 179D(h) (relating to termination) is amended by striking ''December 31, 2008'' and inserting ''December 31, 2009''.

SEC. -54. EXTENSION OF ELECTION TO EXPENSE ADVANCED MINE SAFETY EQUIPMENT.

Section 179E(g) (relating to termination) is amended by striking ''December 31, 2008'' and inserting ''December 31, 2009''.

SEC. -55. EXTENSION AND MODIFICATION OF EXPENSING RULES FOR QUALIFIED FILM AND TELEVISION PRODUCTIONS.

Section 181(f) (relating to termination) is amended by striking ''December 31, 2008'' and inserting ''December 31, 2009''.

SEC. -56. SUBPART F EXCEPTION FOR ACTIVE FINANCING INCOME.

(a) EXEMPT INSURANCE INCOME.—Paragraph (10) of section 953(e) (relating to application) is amended—

(1) by striking ''January 1, 2009'' and inserting ''January 1, 2010'', and

(2) by striking ''December 31, 2008'' and inserting ''December 31, 2009''.

(b) EXCEPTION TO TREATMENT AS FOREIGN PERSONAL HOLDING COMPANY INCOME.—Paragraph (9) of section 954(h) (relating to application) is amended by striking ''January 1, 2009'' and inserting ''January 1, 2010''.

SEC. -57. EXTENSION OF LOOK-THRU RULE FOR RELATED CONTROLLED FOREIGN CORPORATIONS.

Subparagraph (B) of section 954(c)(6) (relating to application) is amended by striking ''January 1, 2009'' and inserting ''January 1, 2010''.

Subtitle C—Excise Tax Provisions

PART I—PROVISIONS EXPIRING IN 2007

SEC. -61. INCREASE IN LIMIT ON COVER OVER OF RUM EXCISE TAX TO PUERTO RICO AND THE VIRGIN ISLANDS.

(a) IN GENERAL.—Paragraph (1) of section 7652(f) is amended by inserting '', and after the date of the enactment of the Foreclosure Prevention Act and before January 1, 2010'' after ''January 1, 2008''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to distilled spirits brought into the United States after the date of the enactment of this Act.

SEC. -62. PARITY IN THE APPLICATION OF CERTAIN LIMITS TO MENTAL HEALTH BENEFITS.

(a) IN GENERAL.—Subsection (f) of section 9812 (relating to application of section) is amended—

(1) by striking ''and'' at the end of paragraph (2),

(2) by striking the period at the end of paragraph (3) and inserting '', and before the date of the enactment of the Foreclosure Prevention Act'', and

(3) by adding at the end the following new paragraph:

''(4) after December 31, 2009.''.

(b) AMENDMENT TO THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.—Section 712(f) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1185a(f)) is amended by inserting '', and before the date of the enactment of the Foreclosure Prevention Act, and after December 31, 2009'' after ''December 31, 2007''.

(c) AMENDMENT TO THE PUBLIC HEALTH SERVICE ACT.—Section 2705(f) of the Public Health Service Act (42 U.S.C. 300gg-5(f)) is amended by inserting '', and before the date of the enactment of the Foreclosure Prevention Act, and after December 31, 2009'' after ''December 31, 2006''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to benefits for services furnished on or after the date of the enactment of this Act.

SEC. -63. EXTENSION OF ECONOMIC DEVELOPMENT CREDIT FOR AMERICAN SAMOA.

(a) IN GENERAL.—Subsection (d) of section 119 of division A of the Tax Relief and Health Care Act of 2006 is amended—

(1) by striking ''first two taxable years'' and inserting ''first 4 taxable years'', and

(2) by striking ''January 1, 2008'' and inserting ''January 1, 2010''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2007.

PART II—PROVISIONS EXPIRING IN 2008

SEC. -66. SPECIAL RULE FOR QUALIFIED METHANOL OR ETHANOL FUEL FROM COAL.

Subparagraph (D) of section 4041(b)(2) (relating to termination) is amended by striking ''January 1, 2009'' and inserting ''January 1, 2010''.

SEC. -67. BIODIESEL MIXTURE CREDIT AND CREDIT FOR FUELS USED FOR NONTAXABLE PURPOSES.

(a) BIODIESEL MIXTURES.—Paragraph (6) of section 6426(c) (relating to termination) is amended by striking ''December 31, 2008'' and inserting ''December 31, 2009''.

(b) BIODIESEL USED FOR NONTAXABLE PURPOSES.—Paragraph (5)(B) of section 6427(e) (relating to termination) is amended by striking ''December 31, 2008'' and inserting ''December 31, 2009''.

Subtitle D—Tax Administration Provisions

PART I—PROVISIONS EXPIRING IN 2007

SEC. -71. DISCLOSURES TO FACILITATE COMBINED EMPLOYMENT TAX REPORTING.

(a) IN GENERAL.—Subparagraph (B) of section 6103(d)(5) (relating to termination) is amended by striking ''December 31, 2007'' and inserting ''December 31, 2009''.

(b) EFFECTIVE DATE.—The amendments made by this subsection shall apply to disclosures after the date of the enactment of this Act.

SEC. -72. DISCLOSURE OF RETURN INFORMATION TO APPRISE APPROPRIATE OFFICIALS OF TERRORIST ACTIVITIES.

(a) IN GENERAL.—Clause (iv) of section 6103(i)(3)(C) (relating to termination) is amended by striking ''December 31, 2007'' and inserting ''December 31, 2009''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to disclosures after the date of the enactment of this Act.

SEC. -73. DISCLOSURE UPON REQUEST OF INFORMATION RELATING TO TERRORIST ACTIVITIES.

(a) IN GENERAL.—Subparagraph (E) of section 6103(i)(7) (relating to termination) is amended by striking ''December 31, 2007'' and inserting ''December 31, 2009''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to disclosures after the date of the enactment of this Act.

SEC. -74. DISCLOSURE OF RETURN INFORMATION TO CARRY OUT INCOME CONTINGENT REPAYMENT OF STUDENT LOANS.

(a) IN GENERAL.—Subparagraph (D) of section 6103(l)(13) (relating to termination) is amended by striking ''December 31, 2007'' and inserting ''December 31, 2009''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to disclosures after the date of the enactment of this Act.

SEC. -75. AUTHORITY FOR UNDERCOVER OPERATIONS.

(a) IN GENERAL.—Paragraph (6) of section 7608(c) (relating to application of section) is amended by striking ''January 1, 2008'' each place it appears and inserting ''January 1, 2010''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to operations conducted after the date of the enactment of this Act.

PART II—PROVISIONS EXPIRING IN 2008

SEC. -76. EXTENSION OF REPORTING OF INTEREST OF EXEMPT ORGANIZATIONS IN INSURANCE CONTRACTS.

Section 6050V(e) (relating to termination) is amended by striking ''the date which is 2 years after the date of the enactment of this section'' and inserting ''December 31, 2009''.

SEC. -77. DISCLOSURES RELATING TO CERTAIN PROGRAMS ADMINISTERED BY THE DEPARTMENT OF VETERANS AFFAIRS.

(a) IN GENERAL.—Section 6103(l)(7)(D) (relating to programs to which rule applies) is amended by striking ''September 30, 2008'' and inserting ''December 31, 2009''.

(b) TECHNICAL AMENDMENT.—Section 6103(l)(7)(D)(viii)(III) is amended by striking ''sections 1710(a)(1)(I), 1710(a)(2), 1710(b), and 1712(a)(2)(B)'' and inserting ''sections 1710(a)(2)(G), 1710(a)(3), and 1710(b)''.

SA 4469. Mr. KYL submitted an amendment intended to be proposed by him to the bill H.R. 3221, moving the United States toward greater energy independence and security, developing innovative new technologies, reducing carbon emissions, creating green jobs, protecting consumers, increasing clean renewable energy production, and modernizing our energy infrastructure, and to amend the Internal Revenue Code of 1986 to provide tax incentives for the production of renewable energy and energy conservation; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

TITLE —EXTENSION OF EXPIRING TAX PROVISIONS

SEC. -00. AMENDMENT OF 1986 CODE.

Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

Subtitle A—Individual Tax Provisions

SEC. -01. NONBUSINESS ENERGY PROPERTY.

(a) EXTENSION OF CREDIT.—Section 25C(g) (relating to termination) is amended by striking ''December 31, 2007'' and inserting ''December 31, 2008''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to property placed in service after December 31, 2007.

SEC. -02. ELECTION TO INCLUDE COMBAT PAY AS EARNED INCOME FOR PURPOSES OF THE EARNED INCOME CREDIT.

(a) IN GENERAL.—Subclause (II) of section 32(c)(2)(B)(vi) (defining earned income) is amended by striking ''January 1, 2008'' and inserting ''January 1, 2009''.

(b) CONFORMING AMENDMENT.—Paragraph (4) of section 6428, as amended by the Economic Stimulus Act of 2008, is amended to read as follows:

''(4) EARNED INCOME.—The term 'earned income' has the meaning set forth in section 32(c)(2) except that such term shall not include net earnings from self-employment which are not taken into account in computing taxable income.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after December 31, 2007.

SEC. -03. DEDUCTION FOR CERTAIN EXPENSES OF ELEMENTARY AND SECONDARY SCHOOL TEACHERS.

(a) IN GENERAL.—Subparagraph (D) of section 62(a)(2) (relating to certain expenses of elementary and secondary school teachers) is amended by striking ''or 2007'' and inserting ''2007, or 2008''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2007.

SEC. -04. DISTRIBUTIONS FROM RETIREMENT PLANS TO INDIVIDUALS CALLED TO ACTIVE DUTY.

(a) IN GENERAL.—Clause (iv) of section 72(t)(2)(G) is amended by striking ''December 31, 2007'' and inserting ''January 1, 2009''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to individuals ordered or called to active duty on or after December 31, 2007.

SEC. -05. MODIFICATION OF MORTGAGE REVENUE BONDS FOR VETERANS.

(a) QUALIFIED MORTGAGE BONDS USED TO FINANCE RESIDENCES FOR VETERANS WITHOUT REGARD TO FIRST-TIME HOMEBUYER REQUIREMENT.—Subparagraph (D) of section 143(d)(2) (relating to exceptions) is amended by inserting ''and after the date of the enactment of the Foreclosure Prevention Act and before January 1, 2009'' after ''January 1, 2008''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to bonds issued after the date of the enactment of this Act.

SEC. -06. DEDUCTION FOR STATE AND LOCAL SALES TAXES.

(a) IN GENERAL.—Subparagraph (I) of section 164(b)(5) is amended by striking ''January 1, 2008'' and inserting ''January 1, 2009''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2007.

SEC. -07. ARCHER MSAS.

(a) IN GENERAL.—Subsection (i) of section 220 (relating to limitation on number of taxpayers having Archer MSAs) is amended—

(1) by striking ''2007'' each place it appears in paragraphs (2) and (3)(B) and inserting ''2008'',

(2) by striking ''2007'' in the heading of paragraph (3)(B) and inserting ''2008''.

(b) CONFORMING AMENDMENTS.—Subsection (j) of section 220 is amended—

(1) by striking ''or 2006'' each place it appears in paragraph (2) and inserting ''2006, or 2007'',

(2) by striking ''OR 2006'' in the heading for paragraph (2) and inserting ''2006, OR 2007'', and

(3) by striking ''and 2006'' in paragraph (4) and inserting ''2006, or 2007''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to calendar years beginning after December 31, 2007.

SEC. -08. DEDUCTION OF QUALIFIED TUITION AND RELATED EXPENSES.

(a) IN GENERAL.—Subsection (e) of section 222 (relating to termination) is amended by striking ''December 31, 2007'' and inserting ''December 31, 2008''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2007.

SEC. -09. TAX-FREE DISTRIBUTIONS FROM INDIVIDUAL RETIREMENT PLANS FOR CHARITABLE PURPOSES.

(a) IN GENERAL.—Subparagraph (F) of section 408(d)(8) (relating to termination) is amended by striking ''December 31, 2007'' and inserting ''December 31, 2008''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to distributions made in taxable years beginning after December 31, 2007.

SEC. -10. STOCK IN RIC FOR PURPOSES OF DETERMINING ESTATES OF NON-RESIDENTS NOT CITIZENS.

(a) IN GENERAL.—Paragraph (3) of section 2105(d) (relating to stock in a RIC) is amended by striking ''December 31, 2007'' and inserting ''December 31, 2008''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to decedents dying after December 31, 2007.

Subtitle B—Business Tax Provisions

SEC. -11. RESEARCH ACTIVITIES.

(a) IN GENERAL.—Section 41(h) (relating to termination) is amended by striking ''December 31, 2007'' and inserting ''December 31, 2008'' in paragraph (1)(B).

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to amounts paid or incurred after December 31, 2007.

SEC. -12. INDIAN EMPLOYMENT CREDIT.

(a) IN GENERAL.—Subsection (f) of section 45A (relating to termination) is amended by striking ''December 31, 2007'' and inserting ''December 31, 2008''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2007.

SEC. -13. RAILROAD TRACK MAINTENANCE.

(a) IN GENERAL.—Subsection (f) of section 45G (relating to application of section) is amended by striking ''January 1, 2008'' and inserting ''January 1, 2009''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to expenditures paid or incurred during taxable years beginning after December 31, 2007.

SEC. -14. PRODUCTION OF FUEL FROM A NONCONVENTIONAL SOURCE AT CERTAIN FACILITIES.

(a) IN GENERAL.—Subsection (f)(1)(B) of section 45K (relating to extension for certain facilities) is amended by striking ''January 1, 2008'' and inserting ''January 1, 2009''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to fuels produced and sold after December 31, 2007.

SEC. -15. ENERGY EFFICIENT APPLIANCES.

(a) IN GENERAL.—Subsection (b) of section 45M (relating to applicable amount) is amended by striking ''calendar year 2006 or 2007'' each place it appears in paragraphs (1)(A)(i), (1)(B)(i), (1)(C)(ii)(I), and (1)(C)(iii)(I), and inserting ''calendar year 2006, 2007, or 2008''.

(b) RESTART OF CREDIT LIMITATION.—Paragraph (1) of section 45M(e) (relating to aggregate credit amount allowed) is amended by inserting ''beginning after December 31, 2007'' after ''for all prior taxable years''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to appliances produced after December 31, 2007.

SEC. -16. 15-YEAR STRAIGHT-LINE COST RECOVERY FOR QUALIFIED LEASEHOLD IMPROVEMENTS AND QUALIFIED RESTAURANT IMPROVEMENTS.

(a) IN GENERAL.—Clauses (iv) and (v) of section 168(e)(3)(E) (relating to 15-year property) are each amended by striking ''January 1, 2008'' and inserting ''January 1, 2009''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after December 31, 2007.

SEC. -17. SEVEN-YEAR COST RECOVERY PERIOD FOR MOTORSPORTS RACING TRACK FACILITY.

(a) IN GENERAL.—Subparagraph (D) of section 168(i)(15) (relating to termination) is amended by striking ''December 31, 2007'' and inserting ''December 31, 2008''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to property placed in service after December 31, 2007.

SEC. -18. ACCELERATED DEPRECIATION FOR BUSINESS PROPERTY ON INDIAN RESERVATION.

(a) IN GENERAL.—Paragraph (8) of section 168(j) (relating to termination) is amended by striking ''December 31, 2007'' and inserting ''December 31, 2008''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to property placed in service after December 31, 2007.

SEC. -19. QUALIFIED CONSERVATION CONTRIBUTIONS.

(a) IN GENERAL.—Clause (vi) of section 170(b)(1)(E) (relating to termination) is amended by striking ''December 31, 2007'' and inserting ''December 31, 2008''.

(b) CONTRIBUTIONS BY CORPORATE FARMERS AND RANCHERS.—Clause (iii) of section 170(b)(2)(B) (relating to termination) is amended by striking ''December 31, 2007'' and inserting ''December 31, 2008''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to contributions made in taxable years beginning after December 31, 2007.

SEC. -20. ENHANCED CHARITABLE DEDUCTION FOR CONTRIBUTIONS OF FOOD INVENTORY.

(a) IN GENERAL.—Clause (iv) of section 170(e)(3)(C) (relating to termination) is amended by striking ''December 31, 2007'' and inserting ''December 31, 2008''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to contributions made after December 31, 2007.

SEC. -21. ENHANCED CHARITABLE DEDUCTION FOR CONTRIBUTIONS OF BOOK INVENTORY.

(a) IN GENERAL.—Clause (iv) of section 170(e)(3)(D) (relating to termination) is amended by striking ''December 31, 2007'' and inserting ''December 31, 2008''.

(b) CLERICAL AMENDMENT.—Clause (iii) of section 170(e)(3)(D) (relating to certification by donee) is amended by inserting ''of books'' after ''to any contribution''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to contributions made after December 31, 2007.

SEC. -22. ENHANCED CHARITABLE DEDUCTION FOR CORPORATE CONTRIBUTIONS OF COMPUTER EQUIPMENT FOR EDUCATIONAL PURPOSES.

(a) IN GENERAL.—Subparagraph (G) of section 170(e)(6) (relating to termination) is amended by striking ''December 31, 2007'' and inserting ''December 31, 2008''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to contributions made after December 31, 2007.

SEC. -23. EXPENSING OF ENVIRONMENTAL REMEDIATION COSTS.

(a) IN GENERAL.—Subsection (h) of section 198 (relating to termination) is amended by striking ''December 31, 2007'' and inserting ''December 31, 2008''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to expenditures paid or incurred after December 31, 2007.

SEC. -24. DEDUCTION ALLOWABLE WITH RESPECT TO INCOME ATTRIBUTABLE TO DOMESTIC PRODUCTION ACTIVITIES IN PUERTO RICO.

(a) IN GENERAL.—Subparagraph (C) of section 199(d)(8) (relating to termination) is amended—

(1) by striking ''first 2 taxable years'' and inserting ''first 3 taxable years'', and

(2) by striking ''January 1, 2008'' and inserting ''January 1, 2009''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2007.

SEC. -25. SPECIAL RULE FOR SALES OR DISPOSITIONS TO IMPLEMENT FERC OR STATE ELECTRIC RESTRUCTURING POLICY.

(a) IN GENERAL.—Paragraph (3) of section 451(i) (relating to qualifying electric transmission transaction) is amended by striking ''January 1, 2008'' and inserting ''January 1, 2009''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to transactions occurring after December 31, 2007.

SEC. -26. MODIFICATION OF TAX TREATMENT OF CERTAIN PAYMENTS TO CONTROLLING EXEMPT ORGANIZATIONS.

(a) IN GENERAL.—Clause (iv) of section 512(b)(13)(E) (relating to termination) is amended by striking ''December 31, 2007'' and inserting ''December 31, 2008''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to payments received or accrued after December 31, 2007.

SEC. -27. SUSPENSION OF TAXABLE INCOME LIMIT WITH RESPECT TO MARGINAL WELLS.

(a) IN GENERAL.—Subparagraph (H) of section 613A(c)(6) (relating to temporary suspension of taxable income limit with respect to marginal production) is amended by striking ''January 1, 2008'' and inserting ''January 1, 2009''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2007.

SEC. -28. TREATMENT OF CERTAIN DIVIDENDS OF REGULATED INVESTMENT COMPANIES.

(a) INTEREST-RELATED DIVIDENDS.—Subparagraph (C) of section 871(k)(1) (defining interest-related dividend) is amended by striking ''December 31, 2007'' and inserting ''December 31, 2008''.

(b) SHORT-TERM CAPITAL GAIN DIVIDENDS.—Subparagraph (C) of section 871(k)(2) (defining short-term capital gain dividend) is amended by striking ''December 31, 2007'' and inserting ''December 31, 2008''.

(c) DISPOSITION OF INVESTMENT IN UNITED STATES REAL PROPERTY.—Clause (ii) of section 897(h)(4)(A) (relating to termination) is amended by striking ''December 31, 2007'' and inserting ''December 31, 2008''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to dividends with respect to taxable years of regulated investment companies beginning after December 31, 2007.

SEC. -29. BASIS ADJUSTMENT TO STOCK OF S CORPORATIONS MAKING CHARITABLE CONTRIBUTIONS OF PROPERTY.

(a) IN GENERAL.—The last sentence of section 1367(a)(2) (relating to decreases in basis) is amended by striking ''December 31, 2007'' and inserting ''December 31, 2008''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to contributions made in taxable years beginning after December 31, 2007.

SEC. -30. EXTENSION OF QUALIFIED ZONE ACADEMY BONDS.

(a) IN GENERAL.—Paragraph (1) of section 1397E(e) is amended by striking ''and 2007'' and inserting ''2007, and 2008''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to obligations issued after the date of the enactment of this Act.

SEC. -31. TAX INCENTIVES FOR INVESTMENT IN THE DISTRICT OF COLUMBIA.

(a) DESIGNATION OF D.C. ENTERPRISE ZONE.—Subsection (f) of section 1400 (relating to time for which designation applicable) is amended by striking ''December 31, 2007'' each place it appears in paragraphs (1) and (2) and inserting ''December 31, 2008''.

(b) TAX-EXEMPT D.C. EMPOWERMENT ZONE BONDS.—Subsection (b) of section 1400A (relating to period of applicability) is amended by inserting '', and after the date of the enactment of the Foreclosure Prevention Act and before January 1, 2009'' after ''December 31, 2007''.

(c) ACQUISITION DATE FOR ELIGIBILITY FOR ZERO-PERCENT CAPITAL GAINS RATE FOR INVESTMENT IN D.C..—Subsection (b) of section 1400B (relating to D.C. zone asset) is amended by striking ''January 1, 2008'' each place it appears in paragraphs (2)(A)(i), (3)(A), (4)(A)(i), and (4)(B)(i)(I) and inserting ''January 1, 2009''.

(d) TAX CREDIT FOR FIRST-TIME D.C. HOMEBUYERS.—Subsection (i) of section 1400C (relating to application of section) is amended by striking ''January 1, 2008'' and inserting ''January 1, 2009''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to transactions after December 31, 2007.

Subtitle C—Excise Tax Provisions

SEC. -41. INCREASE IN LIMIT ON COVER OVER OF RUM EXCISE TAX TO PUERTO RICO AND THE VIRGIN ISLANDS.

(a) IN GENERAL.—Paragraph (1) of section 7652(f) is amended by inserting '', and after the date of the enactment of the Foreclosure Prevention Act and before January 1, 2009'' after ''January 1, 2008''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to distilled spirits brought into the United States after the date of the enactment of this Act.

SEC. -42. PARITY IN THE APPLICATION OF CERTAIN LIMITS TO MENTAL HEALTH BENEFITS.

(a) IN GENERAL.—Subsection (f) of section 9812 (relating to application of section) is amended—

(1) by striking ''and'' at the end of paragraph (2),

(2) by striking the period at the end of paragraph (3) and inserting '', and before the date of the enactment of the Foreclosure Prevention Act'', and

(3) by adding at the end the following new paragraph:

''(4) after December 31, 2008.''.

(b) AMENDMENT TO THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.—Section 712(f) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1185a(f)) is amended by inserting '', and before the date of the enactment of the Foreclosure Prevention Act, and after December 31, 2008'' after ''December 31, 2007''.

(c) AMENDMENT TO THE PUBLIC HEALTH SERVICE ACT.—Section 2705(f) of the Public Health Service Act (42 U.S.C. 300gg-5(f)) is amended by inserting '', and before the date of the enactment of the Foreclosure Prevention Act, and after December 31, 2008'' after ''December 31, 2006''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to benefits for services furnished on or after the date of the enactment of this Act.

SEC. -43. EXTENSION OF ECONOMIC DEVELOPMENT CREDIT FOR AMERICAN SAMOA.

(a) IN GENERAL.—Subsection (d) of section 119 of division A of the Tax Relief and Health Care Act of 2006 is amended—

(1) by striking ''first two taxable years'' and inserting ''first 3 taxable years'', and

(2) by striking ''January 1, 2008'' and inserting ''January 1, 2009''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2007.

Subtitle D—Tax Administration Provisions

SEC. -51. DISCLOSURES TO FACILITATE COMBINED EMPLOYMENT TAX REPORTING.

(a) IN GENERAL.—Subparagraph (B) of section 6103(d)(5) (relating to termination) is amended by striking ''December 31, 2007'' and inserting ''December 31, 2008''.

(b) EFFECTIVE DATE.—The amendments made by this subsection shall apply to disclosures after the date of the enactment of this Act.

SEC. -52. DISCLOSURE OF RETURN INFORMATION TO APPRISE APPROPRIATE OFFICIALS OF TERRORIST ACTIVITIES.

(a) IN GENERAL.—Clause (iv) of section 6103(i)(3)(C) (relating to termination) is amended by striking ''December 31, 2007'' and inserting ''December 31, 2008''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to disclosures after the date of the enactment of this Act.

SEC. -53. DISCLOSURE UPON REQUEST OF INFORMATION RELATING TO TERRORIST ACTIVITIES.

(a) IN GENERAL.—Subparagraph (E) of section 6103(i)(7) (relating to termination) is amended by striking ''December 31, 2007'' and inserting ''December 31, 2008''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to disclosures after the date of the enactment of this Act.

SEC. -54. DISCLOSURE OF RETURN INFORMATION TO CARRY OUT INCOME CONTINGENT REPAYMENT OF STUDENT LOANS.

(a) IN GENERAL.—Subparagraph (D) of section 6103(l)(13) (relating to termination) is amended by striking ''December 31, 2007'' and inserting ''December 31, 2008''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to disclosures after the date of the enactment of this Act.

SEC. -55. AUTHORITY FOR UNDERCOVER OPERATIONS.

(a) IN GENERAL.—Paragraph (6) of section 7608(c) (relating to application of section) is amended by striking ''January 1, 2008'' each place it appears and inserting ''January 1, 2009''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to operations conducted after the date of the enactment of this Act.

SA 4470. Mrs. FEINSTEIN (for herself, Mr. MARTINEZ, Mrs. BOXER, Mr. OBAMA, Mrs. DOLE, Mr. DURBIN, Mr. SALAZAR, Mrs. CLINTON, Ms. KLOBUCHAR, and Ms. MIKULSKI) submitted an amendment intended to be proposed by her to the bill H.R. 3221, moving the United States toward greater energy independence and security, developing innovative new technologies, reducing carbon emissions, creating green jobs, protecting consumers, increasing clean renewable energy production, and modernizing our energy infrastructure, and to amend the Internal Revenue Code of 1986 to provide tax incentives for the production of renewable energy and energy conservation; which was orderd to lie on the table; as follows:

At the end, add the following:

TITLE VIII—S.A.F.E. MORTGAGE LICENSING ACT

SEC. 801. SHORT TITLE.

(a) SHORT TITLE.—This title may be cited as the ''Secure and Fair Enforcement for Mortgage Licensing Act of 2008'' or ''S.A.F.E. Mortgage Licensing Act of 2008''.

(b) TABLE OF CONTENTS.—The table of contents for this title is as follows:

SEC. 802. PURPOSES AND METHODS FOR ESTABLISHING A MORTGAGE LICENSING SYSTEM AND REGISTRY.

In order to increase uniformity, reduce regulatory burden, enhance consumer protection, and reduce fraud, the States, through the Conference of State Bank Supervisors and the American Association of Residential Mortgage Regulators, are hereby encouraged to establish a Nationwide Mortgage Licensing System and Registry for the residential mortgage industry that accomplishes all of the following objectives:

(1) Provides uniform license applications and reporting requirements for State-licensed loan originators.

(2) Provides a comprehensive licensing and supervisory database.

(3) Aggregates and improves the flow of information to and between regulators.

(4) Provides increased accountability and tracking of loan originators.

(5) Streamlines the licensing process and reduces the regulatory burden.

(6) Enhances consumer protections and supports anti-fraud measures.

(7) Provides consumers with easily accessible information, offered at no charge, utilizing electronic media, including the Internet, regarding the employment history of, and publicly adjudicated disciplinary and enforcement actions against, loan originators.

(8) Establishes a means by which residential mortgage loan originators would, to the greatest extent possible, be required to act in the best interests of the consumer.

(9) Facilitates responsible behavior in the subprime mortgage market place and provides comprehensive training and examination requirements related to subprime mortgage lending.

SEC. 803. DEFINITIONS.

For purposes of this title, the following definitions shall apply:

(1) FEDERAL BANKING AGENCIES.—The term ''Federal banking agencies'' means the Board

of Governors of the Federal Reserve System, the Comptroller of the Currency, the Director of the Office of Thrift Supervision, the National Credit Union Administration, and the Federal Deposit Insurance Corporation.

(2) DEPOSITORY INSTITUTION.—The term ''depository institution'' has the same meaning as in section 3 of the Federal Deposit Insurance Act, and includes any credit union.

(3) LOAN ORIGINATOR.—

(A) IN GENERAL.—The term ''loan originator''—

(i) means an individual who—

(I) takes a residential mortgage loan application; and

(II) offers or negotiates terms of a residential mortgage loan for compensation or gain;

(ii) does not include any individual who is not otherwise described in clause (i) and who performs purely administrative or clerical tasks on behalf of a person who is described in any such clause; and

(iii) does not include a person or entity that only performs real estate brokerage activities and is licensed or registered in accordance with applicable State law, unless the person or entity is compensated by a lender, a mortgage broker, or other loan originator or by any agent of such lender, mortgage broker, or other loan originator.

(B) OTHER DEFINITIONS RELATING TO LOAN ORIGINATOR.—For purposes of this subsection, an individual ''assists a consumer in obtaining or applying to obtain a residential mortgage loan'' by, among other things, advising on loan terms (including rates, fees, other costs), preparing loan packages, or collecting information on behalf of the consumer with regard to a residential mortgage loan.

(C) ADMINISTRATIVE OR CLERICAL TASKS.—The term ''administrative or clerical tasks'' means the receipt, collection, and distribution of information common for the processing or underwriting of a loan in the mortgage industry and communication with a consumer to obtain information necessary for the processing or underwriting of a residential mortgage loan.

(D) REAL ESTATE BROKERAGE ACTIVITY DEFINED.—The term ''real estate brokerage activity'' means any activity that involves offering or providing real estate brokerage services to the public, including—

(i) acting as a real estate agent or real estate broker for a buyer, seller, lessor, or lessee of real property;

(ii) bringing together parties interested in the sale, purchase, lease, rental, or exchange of real property;

(iii) negotiating, on behalf of any party, any portion of a contract relating to the sale, purchase, lease, rental, or exchange of real property (other than in connection with providing financing with respect to any such transaction);

(iv) engaging in any activity for which a person engaged in the activity is required to be registered or licensed as a real estate agent or real estate broker under any applicable law; and

(v) offering to engage in any activity, or act in any capacity, described in clause (i), (ii), (iii), or (iv).

(4) LOAN PROCESSOR OR UNDERWRITER.—

(A) IN GENERAL.—The term ''loan processor or underwriter'' means an individual who performs clerical or support duties at the direction of and subject to the supervision and instruction of—

(i) a State-licensed loan originator; or

(ii) a registered loan originator.

(B) CLERICAL OR SUPPORT DUTIES.—For purposes of subparagraph (A), the term ''clerical or support duties'' may include—

(i) the receipt, collection, distribution, and analysis of information common for the processing or underwriting of a residential mortgage loan; and

(ii) communicating with a consumer to obtain the information necessary for the processing or underwriting of a loan, to the extent that such communication does not include offering or negotiating loan rates or terms, or counseling consumers about residential mortgage loan rates or terms.

(5) NATIONWIDE MORTGAGE LICENSING SYSTEM AND REGISTRY.—The term ''Nationwide Mortgage Licensing System and Registry'' means a mortgage licensing system developed and maintained by the Conference of State Bank Supervisors and the American Association of Residential Mortgage Regulators for the State licensing and registration of State-licensed loan originators and the registration of registered loan originators or any system established by the Secretary under section 809.

(6) NONTRADITIONAL MORTGAGE PRODUCT.—The term ''nontraditional mortgage product'' means any mortgage product other than a 30-year fixed rate mortgage.

(7) REGISTERED LOAN ORIGINATOR.—The term ''registered loan originator'' means any individual who—

(A) meets the definition of loan originator and is an employee of a depository institution or a wholly-owned subsidiary of a depository institution; and

(B) is registered with, and maintains a unique identifier through, the Nationwide Mortgage Licensing System and Registry.

(8) RESIDENTIAL MORTGAGE LOAN.—The term ''residential mortgage loan'' means any loan primarily for personal, family, or household use that is secured by a mortgage, deed of trust, or other equivalent consensual security interest on a dwelling (as defined in section 103(v) of the Truth in Lending Act) or residential real estate upon which is constructed or intended to be constructed a dwelling (as so defined).

(9) SECRETARY.—The term ''Secretary'' means the Secretary of Housing and Urban Development.

(10) STATE-LICENSED LOAN ORIGINATOR.—The term ''State-licensed loan originator'' means any individual who—

(A) is a loan originator;

(B) is not an employee of a depository institution or any wholly-owned subsidiary of a depository institution; and

(C) is licensed by a State or by the Secretary under section 808 and registered as a loan originator with, and maintains a unique identifier through, the Nationwide Mortgage Licensing System and Registry.

(11) UNIQUE IDENTIFIER.—

(A) IN GENERAL.—The term ''unique identifier'' means a number or other identifier that—

(i) permanently identifies a loan originator;

(ii) is assigned by protocols established by the Nationwide Mortgage Licensing System and Registry and the Federal banking agencies to facilitate electronic tracking of loan originators and uniform identification of, and public access to, the employment history of and the publicly adjudicated disciplinary and enforcement actions against loan originators; and

(iii) shall not be used for purposes other than those set forth under this title.

(B) RESPONSIBILITY OF STATES.—To the greatest extent possible and to accomplish the purpose of this title, States shall use unique identifiers in lieu of social security numbers.

SEC. 804. LICENSE OR REGISTRATION REQUIRED.

(a) IN GENERAL.—An individual may not engage in the business of a loan originator without first—

(1) obtaining and maintaining, through an annual renewal—

(A) a registration as a registered loan originator; or

(B) a license and registration as a State-licensed loan originator; and

(2) obtaining a unique identifier.

(b) LOAN PROCESSORS AND UNDERWRITERS.—

(1) SUPERVISED LOAN PROCESSORS AND UNDERWRITERS.—A loan processor or underwriter who does not represent to the public, through advertising or other means of communicating or providing information (including the use of business cards, stationery, brochures, signs, rate lists, or other promotional items), that such individual can or will perform any of the activities of a loan originator shall not be required to be a State-licensed loan originator or a registered loan originator.

(2) INDEPENDENT CONTRACTORS.—An independent contractor may not engage in residential mortgage loan origination activities as a loan processor or underwriter unless such independent contractor is a State-licensed loan originator or a registered loan originator.

SEC. 805. STATE LICENSE AND REGISTRATION APPLICATION AND ISSUANCE.

(a) BACKGROUND CHECKS.—In connection with an application to any State for licensing and registration as a State-licensed loan originator, the applicant shall, at a minimum, furnish to the Nationwide Mortgage Licensing System and Registry information concerning the applicant's identity, including—

(1) fingerprints for submission to the Federal Bureau of Investigation, and any governmental agency or entity authorized to receive such information for a State and national criminal history background check; and

(2) personal history and experience, including authorization for the System to obtain—

(A) an independent credit report obtained from a consumer reporting agency described in section 603(p) of the Fair Credit Reporting Act; and

(B) information related to any administrative, civil or criminal findings by any governmental jurisdiction.

(b) ISSUANCE OF LICENSE.—The minimum standards for licensing and registration as a State-licensed loan originator shall include the following:

(1) The applicant has never had a loan originator license revoked in any governmental jurisdiction.

(2) The applicant has never been convicted of, or pled guilty or nolo contendere to, a felony in a domestic, foreign, or military court.

(3) The applicant has demonstrated financial responsibility, character, and general fitness such as to command the confidence of the community and to warrant a determination that the loan originator will operate honestly, fairly, and efficiently within the purposes of this title.

(4) The applicant has completed the pre-licensing education requirement described in subsection (c).

(5) The applicant has passed a written test that meets the test requirement described in subsection (d).

(6) The applicant has met either a minimum net worth or surety bond requirement.

(c) PRE-LICENSING EDUCATION OF LOAN ORIGINATORS.—

(1) MINIMUM EDUCATIONAL REQUIREMENTS.—In order to meet the pre-licensing education requirement referred to in subsection (b)(4), a person shall complete at least 20 hours of education approved in accordance with paragraph (2), which shall include at least—

(A) 3 hours of Federal law and regulations;

(B) 3 hours of ethics, which shall include instruction on fraud, consumer protection, and fair lending issues; and

(C) 2 hours of training related to lending standards for the nontraditional mortgage product marketplace.

(2) APPROVED EDUCATIONAL COURSES.—For purposes of paragraph (1), pre-licensing education courses shall be reviewed, and approved by the Nationwide Mortgage Licensing System and Registry.

(3) LIMITATION AND STANDARDS.—

(A) LIMITATION.—To maintain the independence of the approval process, the Nationwide Mortgage Licensing System and Registry shall not directly or indirectly offer pre-licensure educational courses for loan originators.

(B) STANDARDS.—In approving courses under this section, the Nationwide Mortgage Licensing System and Registry shall apply reasonable standards in the review and approval of courses.

(d) TESTING OF LOAN ORIGINATORS.—

(1) IN GENERAL.—In order to meet the written test requirement referred to in subsection (b)(5), an individual shall pass, in accordance with the standards established under this subsection, a qualified written test developed by the Nationwide Mortgage Licensing System and Registry and administered by an approved test provider.

(2) QUALIFIED TEST.—A written test shall not be treated as a qualified written test for purposes of paragraph (1) unless—

(A) the test consists of a minimum of 100 questions; and

(B) the test adequately measures the applicant's knowledge and comprehension in appropriate subject areas, including—

(i) ethics;

(ii) Federal law and regulation pertaining to mortgage origination;

(iii) State law and regulation pertaining to mortgage origination;

(iv) Federal and State law and regulation, including instruction on fraud, consumer protection, the nontraditional mortgage marketplace, and fair lending issues.

(3) MINIMUM COMPETENCE.—

(A) PASSING SCORE.—An individual shall not be considered to have passed a qualified written test unless the individual achieves a test score of not less than 75 percent correct answers to questions.

(B) INITIAL RETESTS.—An individual may retake a test 3 consecutive times with each consecutive taking occurring in less than 14 days after the preceding test.

(C) SUBSEQUENT RETESTS.—After 3 consecutive tests, an individual shall wait at least 14 days before taking the test again.

(D) RETEST AFTER LAPSE OF LICENSE.—A State-licensed loan originator who fails to maintain a valid license for a period of 5 years or longer shall retake the test, not taking into account any time during which such individual is a registered loan originator.

(e) MORTGAGE CALL REPORTS.—Each mortgage licensee shall submit to the Nationwide Mortgage Licensing System and Registry reports of condition, which shall be in such form and shall contain such information as the Nationwide Mortgage Licensing System and Registry may require.

SEC. 806. STANDARDS FOR STATE LICENSE RENEWAL.

(a) IN GENERAL.—The minimum standards for license renewal for State-licensed loan originators shall include the following:

(1) The loan originator continues to meet the minimum standards for license issuance.

(2) The loan originator has satisfied the annual continuing education requirements described in subsection (b).

(b) CONTINUING EDUCATION FOR STATE-LICENSED LOAN ORIGINATORS.—

(1) IN GENERAL.—In order to meet the annual continuing education requirements referred to in subsection (a)(2), a State-licensed loan originator shall complete at least 8 hours of education approved in accordance with paragraph (2), which shall include at least—

(A) 3 hours of Federal law and regulations;

(B) 2 hours of ethics, which shall include instruction on fraud, consumer protection, and fair lending issues; and

(C) 2 hours of training related to lending standards for the nontraditional mortgage product marketplace.

(2) APPROVED EDUCATIONAL COURSES.—For purposes of paragraph (1), continuing education courses shall be reviewed, and approved by the Nationwide Mortgage Licensing System and Registry.

(3) CALCULATION OF CONTINUING EDUCATION CREDITS.—A State-licensed loan originator—

(A) may only receive credit for a continuing education course in the year in which the course is taken; and

(B) may not take the same approved course in the same or successive years to meet the annual requirements for continuing education.

(4) INSTRUCTOR CREDIT.—A State-licensed loan originator who is approved as an instructor of an approved continuing education course may receive credit for the originator's own annual continuing education requirement at the rate of 2 hours credit for every 1 hour taught.

(5) LIMITATION AND STANDARDS.—

(A) LIMITATION.—To maintain the independence of the approval process, the Nationwide Mortgage Licensing System and Registry shall not directly or indirectly offer any continuing education courses for loan originators.

(B) STANDARDS.—In approving courses under this section, the Nationwide Mortgage Licensing System and Registry shall apply reasonable standards in the review and approval of courses.

SEC. 807. SYSTEM OF REGISTRATION ADMINISTRATION BY FEDERAL BANKING AGENCIES.

(a) DEVELOPMENT.—

(1) IN GENERAL.—The Federal banking agencies shall jointly, through the Federal Financial Institutions Examination Council, develop and maintain a system for registering employees of depository institutions or subsidiaries of depository institutions as registered loan originators with the Nationwide Mortgage Licensing System and Registry. The system shall be implemented before the end of the 1-year period beginning on the date of the enactment of this title.

(2) REGISTRATION REQUIREMENTS.—In connection with the registration of any loan originator who is an employee of a depository institution or a wholly-owned subsidiary of a depository institution with the Nationwide Mortgage Licensing System and Registry, the appropriate Federal banking agency shall, at a minimum, furnish or cause to be furnished to the Nationwide Mortgage Licensing System and Registry information concerning the employees's identity, including—

(A) fingerprints for submission to the Federal Bureau of Investigation, and any governmental agency or entity authorized to receive such information for a State and national criminal history background check; and

(B) personal history and experience, including authorization for the Nationwide Mortgage Licensing System and Registry to obtain information related to any administrative, civil or criminal findings by any governmental jurisdiction.

(b) COORDINATION.—

(1) UNIQUE IDENTIFIER.—The Federal banking agencies, through the Financial Institutions Examination Council, shall coordinate with the Nationwide Mortgage Licensing System and Registry to establish protocols for assigning a unique identifier to each registered loan originator that will facilitate electronic tracking and uniform identification of, and public access to, the employment history of and publicly adjudicated disciplinary and enforcement actions against loan originators.

(2) NATIONWIDE MORTGAGE LICENSING SYSTEM AND REGISTRY DEVELOPMENT.—To facilitate the transfer of information required by subsection (a)(2), the Nationwide Mortgage Licensing System and Registry shall coordinate with the Federal banking agencies, through the Financial Institutions Examination Council, concerning the development and operation, by such System and Registry, of the registration functionality and data requirements for loan originators.

(c) CONSIDERATION OF FACTORS AND PROCEDURES.—In establishing the registration procedures under subsection (a) and the protocols for assigning a unique identifier to a registered loan originator, the Federal banking agencies shall make such de minimis exceptions as may be appropriate to paragraphs (1)(A) and (2) of section 804(a), shall make reasonable efforts to utilize existing information to minimize the burden of registering loan originators, and shall consider methods for automating the process to the greatest extent practicable consistent with the purposes of this title.

SEC. 808. SECRETARY OF HOUSING AND URBAN DEVELOPMENT BACKUP AUTHORITY TO ESTABLISH A LOAN ORIGINATOR LICENSING SYSTEM.

(a) BACK UP LICENSING SYSTEM.—If, by the end of the 1-year period, or the 2-year period in the case of a State whose legislature meets only biennially, beginning on the date of the enactment of this title or at any time thereafter, the Secretary determines that a State does not have in place by law or regulation a system for licensing and registering loan originators that meets the requirements of sections 805 and 806 and subsection (d) of this section, or does not participate in the Nationwide Mortgage Licensing System and Registry, the Secretary shall provide for the establishment and maintenance of a system for the licensing and registration by the Secretary of loan originators operating in such State as State-licensed loan originators.

(b) LICENSING AND REGISTRATION REQUIREMENTS.—The system established by the Secretary under subsection (a) for any State shall meet the requirements of sections 805 and 806 for State-licensed loan originators.

(c) UNIQUE IDENTIFIER.—The Secretary shall coordinate with the Nationwide Mortgage Licensing System and Registry to establish protocols for assigning a unique identifier to each loan originator licensed by the Secretary as a State-licensed loan originator that will facilitate electronic tracking and uniform identification of, and public access to, the employment history of and the publicly adjudicated disciplinary and enforcement actions against loan originators.

(d) STATE LICENSING LAW REQUIREMENTS.—For purposes of this section, the law in effect in a State meets the requirements of this subsection if the Secretary determines the law satisfies the following minimum requirements:

(1) A State loan originator supervisory authority is maintained to provide effective supervision and enforcement of such law, including the suspension, termination, or nonrenewal of a license for a violation of State or Federal law.

(2) The State loan originator supervisory authority ensures that all State-licensed loan originators operating in the State are registered with Nationwide Mortgage Licensing System and Registry.

(3) The State loan originator supervisory authority is required to regularly report violations of such law, as well as enforcement actions and other relevant information, to the Nationwide Mortgage Licensing System and Registry.

(e) TEMPORARY EXTENSION OF PERIOD.—The Secretary may extend, by not more than 24 months, the 1-year or 2-year period, as the case may be, referred to in subsection (a) for the licensing of loan originators in any State under a State licensing law that meets the requirements of sections 805 and 806 and subsection (d) if the Secretary determines that such State is making a good faith effort to establish a State licensing law that meets such requirements, license mortgage originators under such law, and register such originators with the Nationwide Mortgage Licensing System and Registry.

(f) CONTRACTING AUTHORITY.—The Secretary may enter into contracts with qualified independent parties, as necessary to efficiently fulfill the obligations of the Secretary under this section.

SEC. 809. BACKUP AUTHORITY TO ESTABLISH A NATIONWIDE MORTGAGE LICENSING AND REGISTRY SYSTEM.

If at any time the Secretary determines that the Nationwide Mortgage Licensing System and Registry is failing to meet the requirements and purposes of this title for a comprehensive licensing, supervisory, and tracking system for loan originators, the Secretary shall establish and maintain such a system to carry out the purposes of this title and the effective registration and regulation of loan originators.

SEC. 810. FEES.

The Federal banking agencies, the Secretary, and the Nationwide Mortgage Licensing System and Registry may charge reasonable fees to cover the costs of maintaining and providing access to information from the Nationwide Mortgage Licensing System and Registry, to the extent that such fees are not charged to consumers for access to such system and registry.

SEC. 811. BACKGROUND CHECKS OF LOAN ORIGINATORS.

(a) ACCESS TO RECORDS.—Notwithstanding any other provision of law, in providing identification and processing functions, the Attorney General shall provide access to all criminal history information to the appropriate State officials responsible for regulating State-licensed loan originators to the extent criminal history background checks are required under the laws of the State for the licensing of such loan originators.

(b) AGENT.—For the purposes of this section and in order to reduce the points of contact which the Federal Bureau of Investigation may have to maintain for purposes of subsection (a), the Conference of State Bank Supervisors or a wholly owned subsidiary may be used as a channeling agent of the States for requesting and distributing information between the Department of Justice and the appropriate State agencies.

SEC. 812. CONFIDENTIALITY OF INFORMATION.

(a) SYSTEM CONFIDENTIALITY.—Except as otherwise provided in this section, any requirement under Federal or State law regarding the privacy or confidentiality of any information or material provided to the Nationwide Mortgage Licensing System and Registry or a system established by the Secretary under section 809, and any privilege arising under Federal or State law (including the rules of any Federal or State court) with respect to such information or material, shall continue to apply to such information or material after the information or material has been disclosed to the system. Such information and material may be shared with all State and Federal regulatory officials with mortgage industry oversight authority without the loss of privilege or the loss of confidentiality protections provided by Federal and State laws.

(b) NONAPPLICABILITY OF CERTAIN REQUIREMENTS.—Information or material that is subject to a privilege or confidentiality under subsection (a) shall not be subject to—

(1) disclosure under any Federal or State law governing the disclosure to the public of information held by an officer or an agency of the Federal Government or the respective State; or

(2) subpoena or discovery, or admission into evidence, in any private civil action or administrative process, unless with respect to any privilege held by the Nationwide Mortgage Licensing System and Registry or the Secretary with respect to such information or material, the person to whom such information or material pertains waives, in whole or in part, in the discretion of such person, that privilege.

(c) COORDINATION WITH OTHER LAW.—Any State law, including any State open record law, relating to the disclosure of confidential supervisory information or any information or material described in subsection (a) that is inconsistent with subsection (a) shall be superseded by the requirements of such provision to the extent State law provides less confidentiality or a weaker privilege.

(d) PUBLIC ACCESS TO INFORMATION.—This section shall not apply with respect to the information or material relating to the employment history of, and publicly adjudicated disciplinary and enforcement actions against, loan originators that is included in Nationwide Mortgage Licensing System and Registry for access by the public.

SEC. 813. LIABILITY PROVISIONS.

The Secretary, any State official or agency, any Federal banking agency, or any organization serving as the administrator of the Nationwide Mortgage Licensing System and Registry or a system established by the Secretary under section 809, or any officer or employee of any such entity, shall not be subject to any civil action or proceeding for monetary damages by reason of the good-faith action or omission of any officer or employee of any such entity, while acting within the scope of office or employment, relating to the collection, furnishing, or dissemination of information concerning persons who are loan originators or are applying for licensing or registration as loan originators.

SEC. 814. ENFORCEMENT UNDER HUD BACKUP LICENSING SYSTEM.

(a) SUMMONS AUTHORITY.—The Secretary may—

(1) examine any books, papers, records, or other data of any loan originator operating in any State which is subject to a licensing system established by the Secretary under section 808; and

(2) summon any loan originator referred to in paragraph (1) or any person having possession, custody, or care of the reports and records relating to such loan originator, to appear before the Secretary or any delegate of the Secretary at a time and place named in the summons and to produce such books, papers, records, or other data, and to give testimony, under oath, as may be relevant or material to an investigation of such loan originator for compliance with the requirements of this title.

(b) EXAMINATION AUTHORITY.—

(1) IN GENERAL.—If the Secretary establishes a licensing system under section 808 for any State, the Secretary shall appoint examiners for the purposes of administering such section.

(2) POWER TO EXAMINE.—Any examiner appointed under paragraph (1) shall have power, on behalf of the Secretary, to make any examination of any loan originator operating in any State which is subject to a licensing system established by the Secretary under section 808 whenever the Secretary determines an examination of any loan originator is necessary to determine the compliance by the originator with this title.

(3) REPORT OF EXAMINATION.—Each examiner appointed under paragraph (1) shall make a full and detailed report of examination of any loan originator examined to the Secretary.

(4) ADMINISTRATION OF OATHS AND AFFIRMATIONS; EVIDENCE.—In connection with examinations of loan originators operating in any State which is subject to a licensing system established by the Secretary under section 808, or with other types of investigations to determine compliance with applicable law and regulations, the Secretary and examiners appointed by the Secretary may administer oaths and affirmations and examine and take and preserve testimony under oath as to any matter in respect to the affairs of any such loan originator.

(5) ASSESSMENTS.—The cost of conducting any examination of any loan originator operating in any State which is subject to a licensing system established by the Secretary under section 808 shall be assessed by the Secretary against the loan originator to meet the Secretary's expenses in carrying out such examination.

(c) CEASE AND DESIST PROCEEDING.—

(1) AUTHORITY OF SECRETARY.—If the Secretary finds, after notice and opportunity for hearing, that any person is violating, has violated, or is about to violate any provision of this title, or any regulation thereunder, with respect to a State which is subject to a licensing system established by the Secretary under section 808, the Secretary may publish such findings and enter an order requiring such person, and any other person that is, was, or would be a cause of the violation, due to an act or omission the person knew or should have known would contribute to such violation, to cease and desist from committing or causing such violation and any future violation of the same provision, rule, or regulation. Such order may, in addition to requiring a person to cease and desist from committing or causing a violation, require such person to comply, or to take steps to effect compliance, with such provision or regulation, upon such terms and conditions and within such time as the Secretary may specify in such order. Any such order may, as the Secretary deems appropriate, require future compliance or steps to effect future compliance, either permanently or for such period of time as the Secretary may specify, with such provision or regulation with respect to any loan originator.

(2) HEARING.—The notice instituting proceedings pursuant to paragraph (1) shall fix a hearing date not earlier than 30 days nor later than 60 days after service of the notice unless an earlier or a later date is set by the Secretary with the consent of any respondent so served.

(3) TEMPORARY ORDER.—Whenever the Secretary determines that the alleged violation or threatened violation specified in the notice instituting proceedings pursuant to paragraph (1), or the continuation thereof, is likely to result in significant dissipation or conversion of assets, significant harm to consumers, or substantial harm to the public interest prior to the completion of the proceedings, the Secretary may enter a temporary order requiring the respondent to cease and desist from the violation or threatened violation and to take such action to prevent the violation or threatened violation and to prevent dissipation or conversion of assets, significant harm to consumers, or substantial harm to the public interest as

the Secretary deems appropriate pending completion of such proceedings. Such an order shall be entered only after notice and opportunity for a hearing, unless the Secretary determines that notice and hearing prior to entry would be impracticable or contrary to the public interest. A temporary order shall become effective upon service upon the respondent and, unless set aside, limited, or suspended by the Secretary or a court of competent jurisdiction, shall remain effective and enforceable pending the completion of the proceedings.

(4) REVIEW OF TEMPORARY ORDERS.—

(A) REVIEW BY SECRETARY.—At any time after the respondent has been served with a temporary cease-and-desist order pursuant to paragraph (3), the respondent may apply to the Secretary to have the order set aside, limited, or suspended. If the respondent has been served with a temporary cease-and-desist order entered without a prior hearing before the Secretary, the respondent may, within 10 days after the date on which the order was served, request a hearing on such application and the Secretary shall hold a hearing and render a decision on such application at the earliest possible time.

(B) JUDICIAL REVIEW.—Within—

(i) 10 days after the date the respondent was served with a temporary cease-and-desist order entered with a prior hearing before the Secretary; or

(ii) 10 days after the Secretary renders a decision on an application and hearing under paragraph (1), with respect to any temporary cease-and-desist order entered without a prior hearing before the Secretary,

the respondent may apply to the United States district court for the district in which the respondent resides or has its principal place of business, or for the District of Columbia, for an order setting aside, limiting, or suspending the effectiveness or enforcement of the order, and the court shall have jurisdiction to enter such an order. A respondent served with a temporary cease-and-desist order entered without a prior hearing before the Secretary may not apply to the court except after hearing and decision by the Secretary on the respondent's application under subparagraph (A).

(C) NO AUTOMATIC STAY OF TEMPORARY ORDER.—The commencement of proceedings under subparagraph (B) shall not, unless specifically ordered by the court, operate as a stay of the Secretary's order.

(5) AUTHORITY OF THE SECRETARY TO PROHIBIT PERSONS FROM SERVING AS LOAN ORIGINATORS.—In any cease-and-desist proceeding under paragraph (1), the Secretary may issue an order to prohibit, conditionally or unconditionally, and permanently or for such period of time as the Secretary shall determine, any person who has violated this title or regulations thereunder, from acting as a loan originator if the conduct of that person demonstrates unfitness to serve as a loan originator.

(d) AUTHORITY OF THE SECRETARY TO ASSESS MONEY PENALTIES.—

(1) IN GENERAL.—The Secretary may impose a civil penalty on a loan originator operating in any State which is subject to licensing system established by the Secretary under section 808, if the Secretary finds, on the record after notice and opportunity for hearing, that such loan originator has violated or failed to comply with any requirement of this title or any regulation prescribed by the Secretary under this title or order issued under subsection (c).

(2) MAXIMUM AMOUNT OF PENALTY.—The maximum amount of penalty for each act or omission described in paragraph (1) shall be $25,000.

SEC. 815. PREEMPTION OF STATE LAW.

Nothing in this title may be construed to preempt the law of any State, to the extent that such State law provides greater protection to consumers than is provided under this title.

SEC. 816. REPORTS AND RECOMMENDATIONS TO CONGRESS.

(a) ANNUAL REPORTS.—Not later than 1 year after the date of enactment of this title, and annually thereafter, the Secretary shall submit a report to Congress on the effectiveness of the provisions of this title, including legislative recommendations, if any, for strengthening consumer protections, enhancing examination standards, and streamlining communication between all stakeholders involved in residential mortgage loan origination and processing.

(b) LEGISLATIVE RECOMMENDATIONS.—Not later than 6 months after the date of enactment of this title, the Secretary shall make recommendations to Congress on legislative reforms to the Real Estate Settlement Procedures Act of 1974, that the Secretary deems appropriate to promote more transparent disclosures, allowing consumers to better shop and compare mortgage loan terms and settlement costs.

SEC. 817. STUDY AND REPORTS ON DEFAULTS AND FORECLOSURES.

(a) STUDY REQUIRED.—The Secretary shall conduct an extensive study of the root causes of default and foreclosure of home loans, using as much empirical data as is available.

(b) PRELIMINARY REPORT TO CONGRESS.—Not later than 6 months after the date of enactment of this title, the Secretary shall submit to Congress a preliminary report regarding the study required by this section.

(c) FINAL REPORT TO CONGRESS.—Not later than 12 months after the date of enactment of this title, the Secretary shall submit to Congress a final report regarding the results of the study required by this section, which shall include any recommended legislation relating to the study, and recommendations for best practices and for a process to provide targeted assistance to populations with the highest risk of potential default or foreclosure.

SA 4471. Mr. KOHL (for himself and Mrs. LINCOLN) submitted an amendment intended to be proposed by him to the bill H.R. 3221, moving the United States toward greater energy independence and security, developing innovative new technologies, reducing carbon emissions, creating green jobs, protecting consumers, increasing clean renewable energy production, and modernizing our energy infrastructure, and to amend the Internal Revenue Code of 1986 to provide tax incentives for the production of renewable energy and energy conservation; which was ordered to lie on the table; as follows:

On page 82, between lines 7 and 8, insert the following:

TITLE VII—FORECLOSURE RESCUE FRAUD

SEC. 701. DEFINITIONS.

In this title:

(1) COMMISSION.—The term ''Commission'' means the Federal Trade Commission.

(2) FORECLOSURE CONSULTANT.—The term ''foreclosure consultant''—

(A) means a person who directly or indirectly makes any solicitation, representation, or offer to a homeowner facing foreclosure on residential real property to perform, with or without compensation, or who performs, with or without compensation, any service that such person represents will prevent, postpone, or reverse the effect of such foreclosure; and

(B) does not include—

(i) an attorney licensed to practice law in the State in which the property is located who has established an attorney-client relationship with the homeowner;

(ii) a housing counseling agency approved by the Secretary; or

(iii) a person licensed as a real estate broker or salesperson in the State where the property is located, and such person engages in acts permitted under the licensure laws of such State.

(3) HOMEOWNER.—The term ''homeowner'', with respect to residential real property for which an action to foreclose on the mortgage or deed of trust on such real property is filed, means the person holding record title to such property as of the date on which such action is filed.

(4) LOAN SERVICER.—The term ''loan servicer'' has the same meaning as the term ''servicer'' in section 6(i)(2) of the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2605(i)(2)).

(5) RESIDENTIAL MORTGAGE LOAN.—The term ''residential mortgage loan'' means any loan primarily for personal, family, or household use that is secured by a mortgage, deed of trust, or other equivalent consensual security interest on a dwelling (as defined in section 103(v) of the Truth in Lending Act (15 U.S.C. 1602)(v)) or residential real estate upon which is constructed or intended to be constructed a dwelling (as so defined).

(6) RESIDENTIAL REAL PROPERTY.—The term ''residential real property'' has the meaning given the term ''dwelling'' in section 103 of the Consumer Credit Protection Act (15 U.S.C. 1602).

(7) SECRETARY.—The term ''Secretary'' means the Secretary of Housing and Urban Development.

SEC. 702. MORTGAGE RESCUE FRAUD PROTECTION.

(a) LIMITS ON FORECLOSURE CONSULTANTS.—A foreclosure consultant may not—

(1) claim, demand, charge, collect, or receive any compensation from a homeowner for services performed by such foreclosure consultant with respect to residential real property until such foreclosure consultant has fully performed each service that such foreclosure consultant contracted to perform or represented would be performed with respect to such residential real property;

(2) hold any power of attorney from any homeowner, except to inspect documents, as provided by applicable law;

(3) receive any consideration from a third party in connection with services rendered to a homeowner by such third party with respect to the foreclosure of residential real property, unless such consideration is fully disclosed to such homeowner in writing before such services are rendered;

(4) accept any wage assignment, any lien of any type on real or personal property, or other security to secure the payment of compensation with respect to services provided by such foreclosure consultant in connection with the foreclosure of residential real property; or

(5) acquire any interest, directly or indirectly, in the residence of a homeowner with whom the foreclosure consultant has contracted.

(b) CONTRACT REQUIREMENTS.—

(1) WRITTEN CONTRACT REQUIRED.—A foreclosure consultant may not provide to a homeowner a service related to the foreclosure of residential real property—

(A) unless—

(i) a written contract for the purchase of such service has been signed and dated by the homeowner; and

(ii) such contract complies with the requirements described in paragraph (2); and

(B) before the end of the 3-business day period beginning on the date on which the contract is signed.

(2) TERMS AND CONDITIONS OF CONTRACT.—The requirements described in this paragraph, with respect to a contract, are as follows:

(A) The contract includes, in writing—

(i) a full and detailed description of the exact nature of the contract and the total amount and terms of compensation;

(ii) the name, physical address, phone number, email address, and facsimile number, if any, of the foreclosure consultant to whom a notice of cancellation can be mailed or sent under subsection (d); and

(iii) a conspicuous statement in at least 12 point bold face type in immediate proximity to the space reserved for the homeowner's signature on the contract that reads as follows: ''You may cancel this contract without penalty or obligation at any time before midnight of the 3rd business day after the date on which you sign the contract. See the attached notice of cancellation form for an explanation of this right.''.

(B) The contract is written in the principal language used by the homeowner.

(C) The contract is accompanied by the form required by subsection (c)(2).

(c) RIGHT TO CANCEL CONTRACT.—

(1) IN GENERAL.—With respect to a contract between a homeowner and a foreclosure consultant regarding the foreclosure on the residential real property of such homeowner, such homeowner may cancel such contract without penalty or obligation by mailing a notice of cancellation not later than midnight of the 3rd business day after the date on which such contract is executed or would become enforceable against the parties to such contract.

(2) CANCELLATION FORM AND OTHER INFORMATION.—Each contract described in paragraph (1) shall be accompanied by a form, in duplicate, that—

(A) has the heading ''Notice of Cancellation'' in boldface type; and

(B) contains in boldface type the following statement:

''You may cancel this contract, without any penalty or obligation, at any time before midnight of the 3rd day after the date on which the contract is signed by you.

''To cancel this contract, mail or deliver a signed and dated copy of this cancellation notice or any other equivalent written notice to [insert name of foreclosure consultant] at [insert address of foreclosure consultant] before midnight on [insert date].

''I hereby cancel this transaction on [insert date] [insert homeowner signature].''.

(d) WAIVER OF RIGHTS AND PROTECTIONS PROHIBITED.—

(1) IN GENERAL.—A waiver by a homeowner of any protection provided by this section or any right of a homeowner under this section—

(A) shall be treated as void; and

(B) may not be enforced by any Federal or State court or by any person.

(2) ATTEMPT TO OBTAIN A WAIVER.—Any attempt by any person to obtain a waiver from any homeowner of any protection provided by this section or any right of the homeowner under this section shall be treated as a violation of this section.

(3) CONTRACTS NOT IN COMPLIANCE.—Any contract that does not comply with the applicable provisions of this title shall be void and may not be enforceable by any party.

SEC. 703. WARNINGS TO HOMEOWNERS OF FORECLOSURE RESCUE SCAMS.

(a) IN GENERAL.—If a loan servicer finds that a homeowner has failed to make 2 consecutive payments on a residential mortgage loan and such loan is at risk of being foreclosed upon, the loan servicer shall notify such homeowner of the dangers of fraudulent activities associated with foreclosure.

(b) NOTICE REQUIREMENTS.—Each notice provided under subsection (a) shall—

(1) be in writing;

(2) be included with a mailing of account information;

(3) have the heading ''Notice Required by Federal Law'' in a 14-point boldface type in English and Spanish at the top of such notice; and

(4) contain the following statement in English and Spanish: ''Mortgage foreclosure is a complex process. Some people may approach you about saving your home. You should be careful about any such promises. There are government and nonprofit agencies you may contact for helpful information about the foreclosure process. Contact your lender immediately at [_____], call the Department of Housing and Urban Development Housing Counseling Line at (800) 569-4287 to find a housing counseling agency certified by the Department to assist you in avoiding foreclosure, or visit the Department's Tips for Avoiding Foreclosure website at http://www.hud.gov/foreclosure for additional assistance.'' (the blank space to be filled in by the loan servicer).

SEC. 704. CIVIL LIABILITY.

(a) LIABILITY ESTABLISHED.—Any foreclosure consultant who fails to comply with any provision of section 702 or 703 with respect to any other person shall be liable to such person in an amount equal to the sum of the amounts determined under each of the following paragraphs:

(1) ACTUAL DAMAGES.—The greater of—

(A) the amount of any actual damage sustained by such person as a result of such failure; or

(B) any amount paid by the person to the foreclosure consultant.

(2) PUNITIVE DAMAGES.—In the case of any action by an individual, such amount (in addition to damages described in paragraph (1)) as the court may allow.

(3) ATTORNEYS' FEES.—In the case of any successful action to enforce any liability under paragraph (1) or (2), the costs of the action, together with reasonable attorneys' fees.

(b) FACTORS TO BE CONSIDERED IN AWARDING PUNITIVE DAMAGES.—In determining the amount of any liability of any foreclosure consultant under subsection (a)(2), the court shall consider, among other relevant factors—

(1) the frequency and persistence of noncompliance by the foreclosure consultant;

(2) the nature of the noncompliance; and

(3) the extent to which such noncompliance was intentional.

SEC. 705. ADMINISTRATIVE ENFORCEMENT.

(a) ENFORCEMENT BY FEDERAL TRADE COMMISSION.—

(1) UNFAIR OR DECEPTIVE ACT OR PRACTICE.—A violation of a prohibition described in section 702 or a failure to comply with any provision of section 702 or 703 shall be treated as a violation of a rule defining an unfair or deceptive act or practice described under section 18(a)(1)(B) of the Federal Trade Commission Act (15 U.S.C. 57a(a)(1)(B)).

(2) ACTIONS BY THE FEDERAL TRADE COMMISSION.—The Federal Trade Commission shall enforce the provisions of sections 702 and 703 in the same manner, by the same means, and with the same jurisdiction, powers, and duties as though all applicable terms and provisions of the Federal Trade Commission Act (15 U.S.C. 41 et seq.) were incorporated into and made part of this title.

(b) STATE ACTION FOR VIOLATIONS.—

(1) AUTHORITY OF STATES.—In addition to such other remedies as are provided under State law, whenever the chief law enforcement officer of a State, or an official or agency designated by a State, has reason to believe that any person has violated or is violating the provisions of section 702 or 703, the State—

(A) may bring an action to enjoin such violation;

(B) may bring an action on behalf of its residents to recover damages for which the person is liable to such residents under section 704 as a result of the violation; and

(C) in the case of any successful action under subparagraph (A) or (B), shall be awarded the costs of the action and reasonable attorney fees, as determined by the court.

(2) RIGHTS OF FEDERAL TRADE COMMISSION.—

(A) NOTICE TO COMMISSION.—The State shall serve prior written notice of any civil action under paragraph (1) upon the Commission and provide the Commission with a copy of its complaint, except in any case in which such prior notice is not feasible, in which case the State shall serve such notice immediately upon instituting such action.

(B) INTERVENTION.—The Commission shall have the right—

(i) to intervene in any action referred to in subparagraph (A);

(ii) upon so intervening, to be heard on all matters arising in the action; and

(iii) to file petitions for appeal in such actions.

(3) INVESTIGATORY POWERS.—For purposes of bringing any action under this subsection, nothing in this subsection shall prevent the chief law enforcement officer, or an official or agency designated by a State, from exercising the powers conferred on the chief law enforcement officer or such official by the laws of such State to conduct investigations or to administer oaths or affirmations, or to compel the attendance of witnesses or the production of documentary and other evidence.

(4) LIMITATION.—Whenever the Federal Trade Commission has instituted a civil action for a violation of section 702 or 703, no State may, during the pendency of such action, bring an action under this section against any defendant named in the complaint of the Commission for any violation of section 702 or 703 that is alleged in that complaint.

SEC. 706. PREEMPTION.

Nothing in this title affects any provision of State or local law respecting any foreclosure consultant, residential mortgage loan, or residential real property that provides equal or greater protection to homeowners than what is provided under this title.

SA 4472. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill H.R. 3221, moving the United States toward greater energy independence and security, developing innovative new technologies, reducing carbon emissions, creating green jobs, protecting consumers, increasing clean renewable energy production, and modernizing our energy infrastructure, and to amend the Internal Revenue Code of 1986 to provide tax incentives for the production of renewable energy and energy conservation; which was ordered to lie on the table; as follows:

On page 82, line 3, insert ''by any law enacted'' after ''increased''.

SA 4473. Mr. DEMINT submitted an amendment intended to be proposed by him to the bill H.R. 3221, moving the

United States toward greater energy independence and security, developing innovative new technologies, reducing carbon emissions, creating green jobs, protecting consumers, increasing clean renewable energy production, and modernizing our energy infrastructure, and to amend the Internal Revenue Code of 1986 to provide tax incentives for the production of renewable energy and energy conservation; which was ordered to lie on the table; as follows:

On page 12, after line 25, insert the following:

SEC. 202. LIMITATION ON DISTRIBUTION OF FUNDS.

(a) IN GENERAL.—None of the funds made available under this title or title III shall be distributed to—

(1) an organization which has been indicted for a violation under Federal law relating to an election for Federal office; or

(2) an organization which employs applicable individuals.

(b) APPLICABLE INDIVIDUALS DEFINED.—In this section, the term ''applicable individual'' means an individual who—

(1) is—

(A) employed by the organization in a permanent or temporary capacity;

(B) contracted or retained by, or volunteers with, the organization; or

(C) acting on behalf of, or with the express or apparent authority of, the organization; and

(2) has been indicted for a violation under Federal law relating to an election for Federal office.

SA 4474. Mr. DEMINT submitted an amendment intended to be proposed by him to the bill H.R. 3221, moving the United States toward greater energy independence and security, developing innovative new technologies, reducing carbon emissions, creating green jobs, protecting consumers, increasing clean renewable energy production, and modernizing our energy infrastructure, and to amend the Internal Revenue Code of 1986 to provide tax incentives for the production of renewable energy and energy conservation; which was ordered to lie on the table; as follows:

On page 50, strike line 14 and all that follows through page 58, line 2.

SA 4475. Mr. DEMINT submitted an amendment intended to be proposed by him to the bill H.R. 3221, moving the United States toward greater energy independence and security, developing innovative new technologies, reducing carbon emissions, creating green jobs, protecting consumers, increasing clean renewable energy production, and modernizing our energy infrastructure, and to amend the Internal Revenue Code of 1986 to provide tax incentives for the production of renewable energy and energy conservation; which was ordered to lie on the table; as follows:

At the end, add the following:

TITLE VIII—ENSURING ASSISTANCE IS NOT USED IN CONJUNCTION WITH EMINENT DOMAIN AUTHORITY

SEC. 801. LIMITATION ON USE OF FUNDS.

(a) DEFINITION.—For purposes of this section, the term ''housing assistance'' means the following:

(1) Any amounts appropriated, authorized to be appropriated, or otherwise made available under this Act, or any amendment made by this Act.

(2) Any qualified mortgage bond issued by a State or political subdivision or any other entity or organization pursuant to section 143(k)(12) of the Internal Revenue Code, as added by section 602 of this Act.

(3) Any tax credit related to certain home purchases allowable under section 25E of the Internal Revenue Code of 1986, as added by section 603 of this Act.

(b) LIMITATION ON USE OF ASSISTANCE WITH EMINENT DOMAIN AUTHORITY.—Any State or local government entity that receives housing assistance shall be prohibited from using any such assistance or authority in conjunction with any project that involves, includes, or relies on the use of eminent domain by such State or local government or pursuant to a delegation of such authority by the same.

SA 4476. Mr. DEMINT submitted an amendment intended to be proposed by him to the bill H.R. 3221, moving the United States toward greater energy independence and security, developing innovative new technologies, reducing carbon emissions, creating green jobs, protecting consumers, increasing clean renewable energy production, and modernizing our energy infrastructure, and to amend the Internal Revenue Code of 1986 to provide tax incentives for the production of renewable energy and energy conservation; which was ordered to lie on the table; as follows:

At the end, add the following:

TITLE VIII—ENSURING ASSISTANCE IS NOT USED IN CONJUNCTION WITH EMINENT DOMAIN AUTHORITY

SEC. 801. LIMITATION ON USE OF FUNDS.

None of the funds provided to a State or unit of general local government under this Act shall be used in conjunction with any project that involves, includes, or relies on the use of eminent domain by such State or unit of general local government or pursuant to a delegation of such authority by the same.

SA 4477. Mrs. MURRAY (for herself, Mr. SCHUMER, Mr. CASEY, and Mr. BROWN) submitted an amendment intended to be proposed by her to the bill H.R. 3221, moving the United States toward greater energy independence and security, developing innovative new technologies, reducing carbon emissions, creating green jobs, protecting consumers, increasing clean renewable energy production, and modernizing our energy infrastructure, and to amend the Internal Revenue Code of 1986 to provide tax incentives for the production of renewable energy and energy conservation; which was ordered to lie on the table; as follows:

On page 50, line 23, strike ''$4,000,000,000'' and insert ''$3,900,000,000''.

On page 58, line 10, strike ''$100,000,000'' and insert ''$200,000,000''.

SA 4478. Mrs. MURRAY (for herself, Mr. SCHUMER, Mr. CASEY, and Mr. BROWN) submitted an amendment intended to be proposed by her to the bill H.R. 3221, moving the United States toward greater energy independence and security, developing innovative new technologies, reducing carbon emissions, creating green jobs, protecting consumers, increasing clean renewable energy production, and modernizing our energy infrastructure, and to amend the Internal Revenue Code of 1986 to provide tax incentives for the production of renewable energy and energy conservation; which was ordered to lie on the table; as follows:

At the appropriate place in the bill, insert:

SEC.____. Notwithstanding any other provision of this Act, the amount appropriated under section 301(a) of this Act shall be $3,900,000,000 and the amount appropriated under section 401 of this Act shall be $200,000,000.

SA 4479. Mrs. MURRAY (for herself and Mr. SCHUMER) submitted an amendment intended to be proposed by her to the bill H.R. 3221, moving the United States toward greater energy independence and security, developing innovative new technologies, reducing carbon emissions, creating green jobs, protecting consumers, increasing clean renewable energy production, and modernizing our energy infrastructure, and to amend the Internal Revenue Code of 1986 to provide tax incentives for the production of renewable energy and energy conservation; which was ordered to lie on the table; as follows:

On page 50, line 24, after the word ''for'', insert: ''(1)''

On page 51, between lines 4 and 5 insert:

''(2) Targeted housing counseling activities to be provided through Neighborhood Reinvestment Corporation to make grants to counseling intermediaries approved by the Department of Housing and Urban Development (HUD) or State Housing Finance Agencies to provide mortgage foreclosure mitigation assistance primarily to States and areas with high rates of defaults and foreclosures primarily in the sub prime housing market to help eliminate the default and foreclosure of mortgages of owner-occupied single-family homes that are at risk of such foreclosure.''

On page 51, line 6, before the word ''The'' insert:

''(A) Of the amounts made available under this section, $3,900,000,000 shall be made available for the purposes of subsection (a)(1) of this section and $100,000,000 shall be made available for the purposes of subsection (a)(2) of this section.

(B)''

On page 51, line 8, following the word ''under'' insert ''subsection (a)(1) of''

On page 51, line 13, after ''(1)'' insert ''(B)''

On page 51, line 17, after ''(1)'' insert ''(B)''

On page 51, line 18, following the word ''under'' insert ''subsection (a)(1) of''

On page 52, line 9, following the word ''under'' insert ''subsection (a)(1) of''

On page 52, line 11, after ''(1)'' insert ''(B)''

On page 52, at the beginning of line 17, insert ''subsection (a)(1) of''

On page 52, at the beginning of line 23, insert ''subsection (a)(1) of''

On page 53, line 12, insert after the word ''under'', ''subsection (a)(1) of''

On page 54, line 3, insert after the word ''under'', ''subsection (a)(1) of''

On page 55, line 15, following the word ''under'' insert ''subsection (a)(1) of''

On page 56, line 3, following the word ''under'' insert ''subsection (a)(1) of''

On page 56, line 14, after the word ''the'' insert ''Committees on Appropriations of the House of Representatives and the Senate and''

On page 56, line 25, following the word ''under'' insert ''subsection (a)(1) of''

On page 57, line 6, following the word ''under'' insert ''subsection (a)(1) of''

SA 4480. Mr. CARPER (for himself and Mr. CRAPO) submitted an amendment intended to be proposed by him to the bill H.R. 3221, moving the United States toward greater energy independence and security, developing innovative new technologies, reducing carbon emissions, creating green jobs, protecting consumers, increasing clean renewable energy production, and modernizing our energy infrastructure, and to amend the Internal Revenue Code of 1986 to provide tax incentives for the production of renewable energy and energy conservation; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. FEDERAL HOME LOAN BANK REFINANCING AUTHORITY FOR CERTAIN RESIDENTIAL MORTGAGE LOANS.

Section 10(j)(2) of the Federal Home Loan Bank Act (12 U.S.C. 1430(j)(2) is amended—

(1) in subparagraph (A), by striking ''or'' at the end;

(2) in subparagraph (B), by striking the period at the end and inserting ''; or''; and

(3) by adding at the end the following:

''(C) during the 2-year period beginning on the date of enactment of this subparagraph, refinance loans that are secured by a first mortgage on a primary residence of any family having an income at or below 80 percent of the median income for the area.''.

SA 4481. Mr. BAUCUS (for himself, Ms. SNOWE, and Mr. WHITEHOUSE) submitted an amendment intended to be proposed by him to the bill H.R. 3221, moving the United States toward greater energy independence and security, developing innovative new technologies, reducing carbon emissions, creating green jobs, protecting consumers, increasing clean renewable energy production, and modernizing our energy infrastructure, and to amend the Internal Revenue Code of 1986 to provide tax incentives for the production of renewable energy and energy conservation; which was ordered to lie on the table; as follows:

On page 51, strike line 5 and all that follows through page 52, line 13, and insert the following:

(b) ALLOCATION OF APPROPRIATED AMOUNTS.—

(1) MINIMUM AMOUNT.—Each State shall be allocated not less than 0.50 percent of the total amount appropriated or otherwise made available under this section.

(2) REMAINING AMOUNTS.—Upon the distribution of amounts pursuant to paragraph (1), all remaining amounts appropriated or otherwise made available under this section shall be allocated based on a funding formula established by the Secretary of Housing and Urban Development (in this title referred to as the ''Secretary)''.

(3) FORMULA TO BE DEVISED SWIFTLY.—The funding formula required under paragraph (2) shall be established not later than 60 days after the date of enactment of this section.

(4) CRITERIA.—The funding formula required under paragraph (2) shall ensure that any amounts appropriated or otherwise made available under this section are allocated to States and units of general local government with the greatest need, as such need is determined in the discretion of the Secretary based on—

(A) the number and percentage of home foreclosures in each State or unit of general local government;

(B) the number and percentage of homes financed by a subprime mortgage related loan in each State or unit of general local government; and

(C) the number and percentage of homes in default or delinquency in each State or unit of general local government.

(5) DISTRIBUTION.—Amounts appropriated or otherwise made available under this section shall be distributed according to the funding formula established under paragraph (2) not later than 30 days after the establishment of such formula.

SA 4482. Ms. MIKULSKI submitted an amendment intended to be proposed by her to the bill H.R. 3221, moving the United States toward greater energy independence and security, developing innovative new technologies, reducing carbon emissions, creating green jobs, protecting consumers, increasing clean renewable energy production, and modernizing our energy infrastructure, and to amend the Internal Revenue Code of 1986 to provide tax incentives for the production of renewable energy and energy conservation; which was ordered to lie on the table; as follows:

On page 58, line 10, strike ''$100,000,000'' and insert ''$137,500,000''.

On page 58, line 17, strike the period and insert the following: '': Provided, That, of such amounts $37,500,000 shall be used by the Neighborhood Reinvestment Corporation (referred to in this section as the 'NRC') to (1) make grants to counseling intermediaries approved by the Department of Housing and Urban Development or the NRC to hire attorneys trained and capable of assisting homeowners of owner-occupied homes with mortgages in default, in danger of default, or subject to or at risk of foreclosure who have legal issues that cannot be handled by counselors already employed by such intermediaries, and (2) support NRC partnerships with State and local legal organizations and organizations described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from tax under section 501(a) of that Code with demonstrated relevant legal experience in home foreclosure law, as such experience is determined by the Chief Executive Officer of NRC: Provided further, That for the purpose of the prior proviso the term 'relevant experience' means experience representing homeowners in negotiations and/or legal proceedings aimed at preventing or mitigating foreclosure or providing legal research and technical legal expertise to community based organizations whose goal is to reduce, prevent, or mitigate foreclosure: Provided further, That of the amounts provided for in the prior provisos the NRC shall give priority consideration to counseling intermediaries and legal organizations that (1) provide legal assistance in the 100 metropolitan statistical areas (as defined by the Director of the Office of Management and Budget) with the highest home foreclosure rates, and (2) have the capacity to begin using the financial assistance within 90 days after receipt of the assistance.''.

SEC. 302. EMERGENCY DESIGNATION.

For purposes of Senate enforcement, section 301 is designated as emergency requirements and necessary to meet emergency needs pursuant to section 204 of S. Con. Res. 21 (110th Congress), the concurrent resolution on the budget for fiscal year 2008.

SA 4483. Mr. CORNYN submitted an amendment intended to be proposed by him to the bill H.R. 3221, moving the United States toward greater energy independence and security, developing innovative new technologies, reducing carbon emissions, creating green jobs, protecting consumers, increasing clean renewable energy production, and modernizing our energy infrastructure, and to amend the Internal Revenue Code of 1986 to provide tax incentives for the production of renewable energy and energy conservation; which was ordered to lie on the table; as follows:

At the end of title VII, insert the following:

SEC. ___. RESCISSION OF AMOUNTS APPROPRIATED FOR FISCAL YEAR 2008.

(a) IN GENERAL.—The discretionary amounts made available by Consolidated Appropriations Act, 2008 (121 Stat. 1845; Public Law 110–161), that are unobligated on the date of enactment of this Act are reduced on a pro rata basis by $4,100,000,000 and are rescinded, except for any amounts made available under—

(1) Division E (Department of Homeland Security Appropriations Act, 2008);

(2) Division I (Military Construction and Veterans Affairs and Related Agencies Appropriations Act, 2008); and

(3) Division L (Emergency Supplemental Appropriations for Operation Enduring Freedom and for Other Purposes).

(b) ADMINISTRATION.—The Director of the Office of Management and Budget shall—

(1) administer the reduction specified in subsection (a); and

(2) submit to the Committee on Appropriations of the Senate and the Committee on Appropriations of the House of Representatives a report specifying the account and the amount of each reduction made pursuant to subsection (a).

SA 4484. Mr. CORNYN submitted an amendment intended to be proposed by him to the bill H.R. 3221, moving the United States toward greater energy independence and security, developing innovative new technologies, reducing carbon emissions, creating green jobs, protecting consumers, increasing clean renewable energy production, and modernizing our energy infrastructure, and to amend the Internal Revenue Code of 1986 to provide tax incentives for the production of renewable energy and energy conservation; which was ordered to lie on the table; as follows:

At the end, add the following:

TITLE VIII—VETERANS HOUSING MATTERS

SEC. 801. HOME IMPROVEMENTS AND STRUCTURAL ALTERATIONS FOR TOTALLY DISABLED MEMBERS OF THE ARMED FORCES BEFORE DISCHARGE OR RELEASE FROM THE ARMED FORCES.

Section 1717 of title 38, United States Code, is amended by adding at the end the following new subsection:

''(d)(1) In the case of a member of the Armed Forces who, as determined by the Secretary, has a disability permanent in nature incurred or aggravated in the line of duty in the active military, naval, or air service, the Secretary may furnish improvements and structural alterations for such member for such disability or as otherwise described in subsection (a)(2) while such member is hospitalized or receiving outpatient medical care, services, or treatment for such disability if the Secretary determines that such member is likely to be discharged or released from the Armed Forces for such disability.

''(2) The furnishing of improvements and alterations under paragraph (1) in connection with the furnishing of medical services described in subparagraph (A) or (B) of subsection (a)(2) shall be subject to the limitation specified in the applicable subparagraph.''.

SEC. 802. ELIGIBILITY FOR SPECIALLY ADAPTED HOUSING BENEFITS AND ASSISTANCE FOR MEMBERS OF THE ARMED FORCES WITH SERVICE-CONNECTED DISABILITIES AND INDIVIDUALS RESIDING OUTSIDE THE UNITED STATES.

(a) ELIGIBILITY.—Chapter 21 of title 38, United States Code, is amended by inserting after section 2101 the following new section:

''§ 2101A. Eligibility for benefits and assistance: members of the Armed Forces with service-connected disabilities; individuals residing outside the United States

''(a) MEMBERS WITH SERVICE-CONNECTED DISABILITIES.—(1) The Secretary may provide assistance under this chapter to a member of the Armed Forces serving on active duty who is suffering from a disability that meets applicable criteria for benefits under this chapter if the disability is incurred or aggravated in line of duty in the active military, naval, or air service. Such assistance shall be provided to the same extent as assistance is provided under this chapter to veterans eligible for assistance under this chapter and subject to the same requirements as veterans under this chapter.

''(2) For purposes of this chapter, any reference to a veteran or eligible individual shall be treated as a reference to a member of the Armed Forces described in subsection (a) who is similarly situated to the veteran or other eligible individual so referred to.

''(b) BENEFITS AND ASSISTANCE FOR INDIVIDUALS RESIDING OUTSIDE THE UNITED STATES.—(1) Subject to paragraph (2), the Secretary may, at the Secretary's discretion, provide benefits and assistance under this chapter (other than benefits under section 2106 of this title) to any individual otherwise eligible for such benefits and assistance who resides outside the United States.

''(2) The Secretary may provide benefits and assistance to an individual under paragraph (1) only if—

''(A) the country or political subdivision in which the housing or residence involved is or will be located permits the individual to have or acquire a beneficial property interest (as determined by the Secretary) in such housing or residence; and

''(B) the individual has or will acquire a beneficial property interest (as so determined) in such housing or residence.

''(c) REGULATIONS.—Benefits and assistance under this chapter by reason of this section shall be provided in accordance with such regulations as the Secretary may prescribe.''.

(b) CONFORMING AMENDMENTS.—

(1) REPEAL OF SUPERSEDED AUTHORITY.—Section 2101 of such title is amended—

(A) by striking subsection (c); and

(B) by redesignating subsection (d) as subsection (c).

(2) LIMITATIONS ON ASSISTANCE.—Section 2102 of such title is amended—

(A) in subsection (a)—

(i) by striking ''veteran'' each place it appears and inserting ''individual''; and

(ii) in paragraph (3), by striking ''veteran's'' and inserting ''individual's'';

(B) in subsection (b)(1), by striking ''a veteran'' and inserting ''an individual'';

(C) in subsection (c)—

(i) by striking ''a veteran'' and inserting ''an individual''; and

(ii) by striking ''the veteran'' each place it appears and inserting ''the individual''; and

(D) in subsection (d), by striking ''a veteran'' each place it appears and inserting ''an individual''.

(3) ASSISTANCE FOR INDIVIDUALS TEMPORARILY RESIDING IN HOUSING OF FAMILY MEMBER.—Section 2102A of such title is amended—

(A) by striking ''veteran'' each place it appears (other than in subsection (b)) and inserting ''individual'';

(B) in subsection (a), by striking ''veteran's'' each place it appears and inserting ''individual's''; and

(C) in subsection (b), by striking ''a veteran'' each place it appears and inserting ''an individual''.

(4) FURNISHING OF PLANS AND SPECIFICATIONS.—Section 2103 of such title is amended by striking ''veterans'' both places it appears and inserting ''individuals''.

(5) CONSTRUCTION OF BENEFITS.—Section 2104 of such title is amended—

(A) in subsection (a), by striking ''veteran'' each place it appears and inserting ''individual''; and

(B) in subsection (b)—

(i) in the first sentence, by striking ''A veteran'' and inserting ''An individual'';

(ii) in the second sentence, by striking ''a veteran'' and inserting ''an individual''; and

(iii) by striking ''such veteran'' each place it appears and inserting ''such individual''.

(6) VETERANS' MORTGAGE LIFE INSURANCE.—Section 2106 of such title is amended—

(A) in subsection (a)—

(i) by striking ''any eligible veteran'' and inserting ''any eligible individual''; and

(ii) by striking ''the veterans' '' and inserting ''the individual's'';

(B) in subsection (b), by striking ''an eligible veteran'' and inserting ''an eligible individual'';

(C) in subsection (e), by striking ''an eligible veteran'' and inserting ''an individual'';

(D) in subsection (h), by striking ''each veteran'' and inserting ''each individual'';

(E) in subsection (i), by striking ''the veteran's'' each place it appears and inserting ''the individual's'';

(F) by striking ''the veteran'' each place it appears and inserting ''the individual''; and

(G) by striking ''a veteran'' each place it appears and inserting ''an individual''.

(7) HEADING AMENDMENTS.—(A) The heading of section 2101 of such title is amended to read as follows:

''§ 2101. Acquisition and adaptation of housing: eligible veterans''.

(B) The heading of section 2102A of such title is amended to read as follows:

''§ 2102A. Assistance for individuals residing temporarily in housing owned by a family member''.

(8) CLERICAL AMENDMENTS.—The table of sections at the beginning of chapter 21 of such title is amended—

(A) by striking the item relating to section 2101 and inserting the following new item:

''2101. Acquisition and adaptation of housing: eligible veterans.'';

(B) by inserting after the item relating to section 2101, as so amended, the following new item:

''2101A. Eligibility for benefits and assistance: members of the Armed Forces with service-connected disabilities; individuals residing outside the United States.'';

and

(C) by striking the item relating to section 2102A and inserting the following new item:

''2102A. Assistance for individuals residing temporarily in housing owned by a family member.''.

SEC. 803. SPECIALLY ADAPTED HOUSING ASSISTANCE FOR INDIVIDUALS WITH SEVERE BURN INJURIES.

Section 2101 of title 38, United States Code, is amended—

(1) in subsection (a)(2), by adding at the end the following new subparagraph:

''(E) The disability is due to a severe burn injury (as determined pursuant to regulations prescribed by the Secretary).''; and

(2) in subsection (b)(2)—

(A) by striking ''either'' and inserting ''any''; and

(B) by adding at the end the following new subparagraph:

''(C) The disability is due to a severe burn injury (as so determined).''.

SEC. 804. EXTENSION OF ASSISTANCE FOR INDIVIDUALS RESIDING TEMPORARILY IN HOUSING OWNED BY A FAMILY MEMBER.

Section 2102A(e) of title 38, United States Code, is amended by striking ''after the end of the five-year period that begins on the date of the enactment of the Veterans' Housing Opportunity and Benefits Improvement Act of 2006'' and inserting ''after December 31, 2011''.

SEC. 805. INCREASE IN SPECIALLY ADAPTED HOUSING BENEFITS FOR DISABLED VETERANS.

(a) IN GENERAL.—Section 2102 of title 38, United States Code, is amended—

(1) in subsection (b)(2), by striking ''$10,000'' and inserting ''$12,000'';

(2) in subsection (d)—

(A) in paragraph (1), by striking ''$50,000'' and inserting ''$60,000''; and

(B) in paragraph (2), by striking ''$10,000'' and inserting ''$12,000''; and

(3) by adding at the end the following new subsection:

''(e)(1) Effective on October 1 of each year (beginning in 2009), the Secretary shall increase the amounts described in subsection (b)(2) and paragraphs (1) and (2) of subsection (d) in accordance with this subsection.

''(2) The increase in amounts under paragraph (1) to take effect on October 1 of a year shall be by an amount of such amounts equal to the percentage by which—

''(A) the residential home cost-of-construction index for the preceding calendar year, exceeds

''(B) the residential home cost-of-construction index for the year preceding the year described in subparagraph (A).

''(3) The Secretary shall establish a residential home cost-of-construction index for the purposes of this subsection. The index shall reflect a uniform, national average change in the cost of residential home construction, determined on a calendar year basis. The Secretary may use an index developed in the private sector that the Secretary determines is appropriate for purposes of this subsection.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on July 1, 2008, and shall apply with respect to payments made in accordance with section 2102 of title 38, United States Code, on or after that date.

SEC. 806. REPORT ON SPECIALLY ADAPTED HOUSING FOR DISABLED INDIVIDUALS.

(a) IN GENERAL.—Not later than December 31, 2008, the Secretary of Veterans Affairs shall submit to the Committee on Veterans' Affairs of the Senate and the Committee on Veterans' Affairs of the House of Representatives a report that contains an assessment of the adequacy of the authorities available to the Secretary under law to assist eligible disabled individuals in acquiring—

(1) suitable housing units with special fixtures or movable facilities required for their disabilities, and necessary land therefor;

(2) such adaptations to their residences as are reasonably necessary because of their disabilities; and

(3) residences already adapted with special features determined by the Secretary to be reasonably necessary as a result of their disabilities.

(b) FOCUS ON PARTICULAR DISABILITIES.—The report required by subsection (a) shall set forth a specific assessment of the needs of—

(1) veterans who have disabilities that are not described in subsections (a)(2) and (b)(2) of section 2101 of title 38, United States Code; and

(2) other disabled individuals eligible for specially adapted housing under chapter 21 of such title by reason of section 2101A of such title (as added by section 802(a) of this Act) who have disabilities that are not described in such subsections.

SEC. 807. REPORT ON SPECIALLY ADAPTED HOUSING ASSISTANCE FOR INDIVIDUALS WHO RESIDE IN HOUSING OWNED BY A FAMILY MEMBER ON PERMANENT BASIS.

Not later than December 31, 2008, the Secretary of Veterans Affairs shall submit to the Committee on Veterans' Affairs of the Senate and the Committee on Veterans' Affairs of the House of Representatives a report on the advisability of providing assistance under section 2102A of title 38, United States Code, to veterans described in subsection (a) of such section, and to members of the Armed Forces covered by such section 2102A by reason of section 2101A of title 38, United States Code (as added by section 802(a) of this Act), who reside with family members on a permanent basis.

SEC. 808. REDIRECTION OF INTERNAL REVENUE SERVICE FEES.

Section 3 under the heading ''Administrative Provisions—Internal Revenue Service'' of title I of Public Law 103–329 is amended by striking ''The Secretary of the Treasury may spend'' in the second sentence and inserting ''Except with respect to the first $10,000,000,000 in receipts, which shall be deposited in the general fund of the Treasury as miscellaneous receipts for any fiscal year beginning after September 30, 2007, the Secretary of the Treasury may spend''.

SA 4485. Mr. SANDERS submitted an amendment intended to be proposed by him to the bill H.R. 3221, moving the United States toward greater energy independence and security, developing innovative new technologies, reducing carbon emissions, creating green jobs, protecting consumers, increasing clean renewable energy production, and modernizing our energy infrastructure, and to amend the Internal Revenue Code of 1986 to provide tax incentives for the production of renewable energy and energy conservation; which was ordered to lie on the table; as follows:

On page 6, between lines 13 and 14, insert the following:

(c) MAXIMUM INSURED MORTGAGE LOAN RATE.—The annual percentage rate applicable to any loan that is insured under title II of the National Housing Act may not exceed by more than 8 percentage points the rate established under section 6621(a)(2) of the Internal Revenue Code of 1986.

SA 4486. Ms. SNOWE submitted an amendment intended to be proposed by her to the bill H.R. 3221, moving the United States toward greater energy independence and security, developing innovative new technologies, reducing carbon emissions, creating green jobs, protecting consumers, increasing clean renewable energy production, and modernizing our energy infrastructure, and to amend the Internal Revenue Code of 1986 to provide tax incentives for the production of renewable energy and energy conservation; which was ordered to lie on the table; as follows:

At the end of the bill, add the following:

TITLE VIII—FEDERAL BOARD OF CERTIFICATION

SEC. 801. SHORT TITLE.

This title may be cited as the ''Restore Confidence in Mortgage Securities Act of 2008''.

SEC. 802. PURPOSE.

It is the purpose of this title to establish a Federal Board of Certification, which shall certify that the mortgages within a security instrument meet the underlying standards they claim to meet with regards to mortgage characteristics including but not limited to: documentation, loan to value ratios, debt service to income ratios, and borrower credit standards and geographic concentration. The purpose of this certification process is to increase the transparency, predictability and reliability of securitized mortgage products.

SEC. 803. DEFINITIONS.

As used in this title—

(1) the term ''Board'' means the Federal Board of Certification established under this title;

(2) the term ''mortgage security'' means an investment instrument that represents ownership of an undivided interest in a group of mortgages;

(3) the term ''insured depository institution'' has the same meaning as in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1803); and

(4) the term ''Federal financial institutions regulatory agency'' has the same meaning as in section 1003 of the Federal Financial Institutions Examination Council Act of 1978 (12 U.S.C. 3302).

SEC. 804. VOLUNTARY PARTICIPATION.

Market participants, including firms that package mortgage loans into mortgage securities, may elect to have their mortgage securities evaluated by the Board.

SEC. 805. STANDARDS.

The Board is authorized to promulgate regulations establishing enumerated security standards which the Board shall use to certify mortgage securities. The Board shall promulgate standards which shall certify that the mortgages within a security instrument meet the underlying standards they claim to meet with regards to documentation, loan to value ratios, debt service to income rations and borrower credit standards. The standards should protect settled investor expectations, and increase the transparency, predictability and reliability of securitized mortgage products.

SEC. 806. COMPOSITION.

(a) ESTABLISHMENT; COMPOSITION.—There is established the Federal Board of Certification, which shall consist of—

(1) the Comptroller of the Currency;

(2) the Secretary of Housing and Urban Development;

(3) a Governor of the Board of Governors of the Federal Reserve System designated by the Chairman of the Board;

(4) the Undersecretary of the Treasury for Domestic Finance; and

(5) the Chairman of the Securities and Exchange Commission.

(b) CHAIRPERSON.—The members of the Board shall select the first chairperson of the Board. Thereafter the position of chairperson shall rotate among the members of the Board.

(c) TERM OF OFFICE.—The term of each chairperson of the Board shall be 2 years.

(d) DESIGNATION OF OFFICERS AND EMPLOYEES.—The members of the Board may, from time to time, designate other officers or employees of their respective agencies to carry out their duties on the Board.

(e) COMPENSATION AND EXPENSES.—Each member of the Board shall serve without additional compensation, but shall be entitled to reasonable expenses incurred in carrying out official duties as such a member.

SEC. 807. EXPENSES.

The costs and expenses of the Board, including the salaries of its employees, shall be paid for by excise fees collected from applicants for security certification from the Board, according to fee scales set by the Board.

SEC. 808. BOARD RESPONSIBILITIES.

(a) ESTABLISHMENT OF PRINCIPLES AND STANDARDS.—The Board shall establish, by rule, uniform principles and standards and report forms for the regular examination of mortgage securities.

(b) DEVELOPMENT OF UNIFORM REPORTING SYSTEM.—The Board shall develop uniform reporting systems for use by the Board in ascertaining mortgage security risk. The Board shall assess, and publicly publish, how it evaluates and certifies the composition of mortgage securities.

(c) AFFECT ON FEDERAL REGULATORY AGENCY RESEARCH AND DEVELOPMENT OF NEW FINANCIAL INSTITUTIONS SUPERVISORY AGENCIES.—Nothing in this title shall be construed to limit or discourage Federal regulatory agency research and development of new financial institutions supervisory methods and tools, nor to preclude the field testing of any innovation devised by any Federal regulatory agency.

(d) ANNUAL REPORT.—Not later than April 1 of each year, the Board shall prepare and submit to Congress an annual report covering its activities during the preceding year.

(e) REPORTING SCHEDULE.—The Board shall determine whether it wants to evaluate mortgage securities at issuance, on a regular basis, or upon request.

SEC. 809. BOARD AUTHORITY.

(a) AUTHORITY OF CHAIRPERSON.—The chairperson of the Board is authorized to carry out and to delegate the authority to carry out the internal administration of the Board, including the appointment and supervision of employees and the distribution of business among members, employees, and administrative units.

(b) USE OF PERSONNEL, SERVICES, AND FACILITIES OF FEDERAL FINANCIAL INSTITUTIONS REGULATORY AGENCIES, AND FEDERAL RESERVE BANKS.—In addition to any other authority conferred upon it by this title, in carrying out its functions under this title, the Board may utilize, with their consent and to the extent practical, the personnel, services, and facilities of the Federal financial institutions regulatory agencies, and Federal Reserve banks, with or without reimbursement therefor.

(c) COMPENSATION, AUTHORITY, AND DUTIES OF OFFICERS AND EMPLOYEES; EXPERTS AND CONSULTANTS.—The Board may—

(1) subject to the provisions of title 5, United States Code, relating to the competitive service, classification, and General Schedule pay rates, appoint and fix the compensation of such officers and employees as are necessary to carry out the provisions of this title, and to prescribe the authority and duties of such officers and employees; and

(2) obtain the services of such experts and consultants as are necessary to carry out this title.

SEC. 810. BOARD ACCESS TO INFORMATION.

For the purpose of carrying out this title, the Board shall have access to all books, accounts, records, reports, files, memorandums, papers, things, and property belonging to or in use by Federal financial institutions regulatory agencies, including reports of examination of financial institutions, their holding companies, or mortgage lending entities from whatever source, together with work papers and correspondence files related to such reports, whether or not a part of the report, and all without any deletions.

SEC. 811. REGULATORY REVIEW.

(a) IN GENERAL.—Not less frequently than once every 10 years, the Board shall conduct a review of all regulations prescribed by the Board, in order to identify outdated or otherwise unnecessary regulatory requirements imposed on insured depository institutions.

(b) PROCESS.—In conducting the review under subsection (a), the Board shall—

(1) categorize the regulations described in subsection (a) by type; and

(2) at regular intervals, provide notice and solicit public comment on a particular category or categories of regulations, requesting commentators to identify areas of the regulations that are outdated, unnecessary, or unduly burdensome.

(c) COMPLETE REVIEW.—The Board shall ensure that the notice and comment period described in subsection (b)(2) is conducted with respect to all regulations described in subsection (a), not less frequently than once every 10 years.

(d) REGULATORY RESPONSE.—The Board shall—

(1) publish in the Federal Register a summary of the comments received under this section, identifying significant issues raised and providing comment on such issues; and

(2) eliminate unnecessary regulations to the extent that such action is appropriate.

(e) REPORT TO CONGRESS.—Not later than 30 days after carrying out subsection (d)(1) of this section, the Board shall submit to the Congress a report, which shall include a summary of any significant issues raised by public comments received by the Board under this section and the relative merits of such issues.

SEC. 812. LIABILITY.

Any publication, transmission, or webpage containing an advertisement for or invitation to buy a mortgage security shall include the following notice, in conspicuous type: ''Certification by the Federal Board of Certification can in no way be considered a guarantee of the mortgage security. Certification is merely a judgment by the Federal Board of Certification of the degree of risk offered by the security in question. The Federal Board of Certification is not liable for any actions taken in reliance on such judgment of risk.''.

SA 4487. Mr. DORGAN submitted an amendment intended to be proposed to amendment SA 4387 submitted by Mr. DODD (for himself and Mr. SHELBY) to the bill H.R. 3221, moving the United States toward greater energy independence and security, developing innovative new technologies, reducing carbon emissions, creating green jobs, protecting consumers, increasing clean renewable energy production, and modernizing our energy infrastructure, and to amend the Internal Revenue Code of 1986 to provide tax incentives for the production of renewable energy and energy conservation; which was ordered to lie on the table; as follows:

At the end of title V add the following:

SEC. 503. ENFORCEMENT.

(a) IN GENERAL.—In accordance with section 917 of the Truth in Lending Act (15 U.S.C. 1693o), the Federal Trade Commission shall—

(1) initiate a rulemaking proceeding within 90 days after the date of enactment of this Act to the extent necessary to implement the amendments made by section 502; and

(2) initiate a rulemaking proceeding with respect to subprime mortgage lending and nontraditional mortgage loans in accordance with section 553 of title 5, United States Code, notwithstanding section 18 of the Federal Trade Commission Act (15 U.S.C. 57a) or any other provision of law.

(b) ENFORCEMENT BY STATE ATTORNEYS GENERAL.—

(1) IN GENERAL.—Except as provided in paragraph (6), a State, as parens patriae, may bring a civil action on behalf of its residents in an appropriate State or district court of the United States to enforce the provisions of the Federal Trade Commission Act or any other Act enforced by the Federal Trade Commission to obtain penalties and relief provided under such Acts whenever the attorney general of the State has reason to believe that the interests of the residents of the State have been or are being threatened or adversely affected by a violation of section 128 of the Truth in Lending Act (15 U.S.C. 1638), as amended by section 502 of this Act, any other provision of that Act or any subprime mortgage lending rule or nontraditional mortgage loan rule promulgated by the Federal Trade Commission.

(2) NOTICE.—The State shall serve written notice to the Commission of any civil action under subsection (a) at least 60 days prior to initiating such civil action. The notice shall include a copy of the complaint to be filed to initiate such civil action, except that if it is not feasible for the State to provide such prior notice, the State shall provide notice immediately upon instituting such civil action.

(3) INTERVENTION BY FTC.—Upon receiving the notice required by paragraph (2), the Commission may intervene in such civil action and upon intervening—

(A) be heard on all matters arising in such civil action;

(B) remove the action to the appropriate United States district courtand

(C) file petitions for appeal of a decision in such civil action.

(4) SAVINGS CLAUSE.—Nothing in this subsection shall prevent the attorney general of a State from exercising the powers conferred on the attorney general by the laws of such State to conduct investigations or to administer oaths or affirmations or to compel the attendance of witnesses or the production of documentary and other evidence. Nothing in this section shall prohibit the attorney general of a State, or other authorized State officer, from proceeding in State or Federal court on the basis of an alleged violation of any civil or criminal statute of that State.

(5) VENUE; SERVICE OF PROCESS; JOINDER.—In a civil action brought under paragraph (1)—

(A) the venue shall be a judicial district in which the lender or a related party operates or is authorized to do business;

(B) process may be served without regard to the territorial limits of the district or of the State in which the civil action is instituted; and

(C) a person who participated with a lender or related party to an alleged violation that is being litigated in the civil action may be joined in the civil action without regard to the residence of the person.

(6) PREEMPTIVE ACTION BY FTC.—Whenever a civil action or an administrative action has been instituted by or on behalf of the Commission for violation of any provision of law or rule described in paragraph (1), no State may, during the pendency of such action instituted by or on behalf of the Commission, institute a civil action under that paragraph against any defendant named in the complaint in such action for violation of any rule as alleged in such complaint.

(7) AWARD OF COSTS AND FEES.—If the attorney general of a State prevails in any civil action under paragraph (1), the State can recover reasonable costs and attorney fees from the lender or related party.

SA 4488. Mrs. MCCASKILL submitted an amendment intended to be proposed by her to the bill H.R. 3221, moving the United States toward greater energy independence and security, developing innovative new technologies, reducing carbon emissions, creating green jobs, protecting consumers, increasing clean renewable energy production, and modernizing our energy infrastructure, and to amend the Internal Revenue Code of 1986 to provide tax incentives for the production of renewable energy and energy conservation; which was ordered to lie on the table; as follows:

On page 18, strike line 1 and all that follows through page 20, line 24, and insert the following:

SEC. 122. HOME EQUITY CONVERSION MORTGAGES.

(a) IN GENERAL.—Section 255 of the National Housing Act (12 U.S.C. 1715z–20) is amended—

(1) in subsection (b)(2), insert '' 'real estate,' '' after '' 'mortgagor','';

(2) by amending subsection (d)(1) to read as follows:

''(1) have been originated by a mortgagee approved by the Secretary;'';

(3) by amending subsection (d)(2)(B) to read as follows:

''(B) has received adequate counseling, as provided in subsection (f), by an independent third party that is not, either directly or indirectly, associated with or compensated by a party involved in-

''(i) originating or servicing the mortgage;

''(ii) funding the loan underlying the mortgage; or

''(iii) the sale of annuities, investments, long-term care insurance, or any other type of financial or insurance product;'';

(4) in subsection (f)—

(A) by striking ''(f) INFORMATION SERVICES FOR MORTGAGORS.—'' and inserting ''(f) COUNSELING SERVICES AND INFORMATION FOR MORTGAGORS.—''; and

(B) by amending the matter preceding paragraph (1) to read as follows: ''The Secretary shall provide or cause to be provided adequate counseling for the mortgagor, as described in subsection (d)(2)(B). Such counseling shall be provided by counselors that meet qualification standards and follow uniform counseling protocols. The qualification standards and counseling protocols shall be established by the Secretary within 12 months of the date of enactment of the Reverse Mortgage Proceeds Protection Act. The protocols shall require a qualified counselor to discuss with each mortgagor information which shall include—''

(5) in subsection (g), by striking ''established under section 203(b)(2)'' and all that follows through ''located'' and inserting ''limitation established under section 305(a)(2) of the Federal Home Loan Mortgage Corporation Act for a 1-family residence'';

(6) in subsection (i)(1)(C), by striking ''limitations'' and inserting ''limitation'';

(8) by redesignating subsection (m) as subsection (l);

(9) by amending subsection (l), as so redesignated, to read as follows:

''(l) FUNDING FOR COUNSELING.—The Secretary may use a portion of the mortgage insurance premiums collected under the program under this section to adequately fund the counseling and disclosure activities required under subsection (f), including counseling for those homeowners who elect not to take out a home equity conversion mortgage, provided that the use of such funds is based upon accepted actuarial principles.''; and

(10) by adding at the end the following new subsection:

''(m) AUTHORITY TO INSURE HOME PURCHASE MORTGAGE.—

''(1) IN GENERAL.—Notwithstanding any other provision of this section, the Secretary may insure, upon application by a mortgagee, a home equity conversion mortgage upon such terms and conditions as the Secretary may prescribe, when the home equity conversion mortgage will be used to purchase a 1- to 4-family dwelling unit, one unit of which that the mortgagor will occupy as a primary residence, and to provide for any future payments to the mortgagor, based on available equity, as authorized under subsection (d)(9).

''(2) LIMITATION ON PRINCIPAL OBLIGATION.—A home equity conversion mortgage insured pursuant to paragraph (1) shall involve a principal obligation that does not exceed the dollar amount limitation determined under section 305(a)(2) of the Federal Home Loan Mortgage Corporation Act for a 1-family residence.

''(n) REQUIREMENTS ON MORTGAGE ORIGINATORS.—

''(1) IN GENERAL.—The mortgagee and any other party that participates in the origination of a mortgage to be insured under this section shall—

''(A) not participate in, be associated with, or employ any party that participates in or is associated with any other financial or insurance activity; or

''(B) demonstrate to the Secretary that the mortgagee or other party maintains, or will maintain, firewalls and other safeguards designed to ensure that—

''(i) individuals participating in the origination of the mortgage shall have no involvement with, or incentive to provide the mortgagor with, any other financial or insurance product; and

''(ii) the mortgagor shall not be required, directly or indirectly, as a condition of obtaining a mortgage under this section, to purchase any other financial or insurance product.

''(2) APPROVAL OF OTHER PARTIES.—All parties that participate in the origination of a mortgage to be insured under this section shall be approved by the Secretary.

''(o) PROHIBITION AGAINST REQUIREMENTS TO PURCHASE ADDITIONAL PRODUCTS.—The mortgagee or any other party shall not be required by the mortgagor or any other party to purchase an insurance, annuity, or other additional product as a requirement or condition of eligibility for a mortgage authorized under subsection (c).

''(p) REGULATIONS TO PROTECT ELDERLY HOMEOWNERS.—Not later than 12 months after the date of enactment of the Reverse Mortgage Proceeds Protection Act, the Secretary shall, in consultation with other relevant Federal departments and agencies, promulgate regulations to help protect elderly homeowners from the marketing of financial products not in the interest of such homeowners, including the marketing or sale of an annuity or investment associated with obtaining, or as a condition of obtaining, any home equity conversion mortgage. This subsection shall not be construed to preempt, supercede, or alter the authority of any State to regulate the provision of insurance in that State, including the sale or marketing of any insurance product.

''(q) STUDY TO DETERMINE CONSUMER PROTECTIONS AND UNDERWRITING STANDARDS.—The Secretary shall conduct a study to examine and determine appropriate consumer protections and underwriting standards to ensure that the purchase of products referred to in subsection (o) is appropriate for the consumer. In conducting such study, the Secretary shall consult with consumer advocates (including recognized experts in consumer protection), industry representatives, representatives of counseling organizations, and other interested parties.''.

(b) MORTGAGES FOR COOPERATIVES.—Subsection (b) of section 255 of the National Housing Act (12 U.S.C. 1715z–20(b)) is amended—

(1) in paragraph (4)—

(A) by inserting ''a first or subordinate mortgage or lien'' before ''on all stock'';

(B) by inserting ''unit'' after ''dwelling''; and

(C) by inserting ''a first mortgage or first lien'' before ''on a leasehold''; and

(2) in paragraph (5), by inserting ''a first or subordinate lien on'' before ''all stock''.

(c) LIMITATION ON ORIGINATION FEES.—Section 255 of the National Housing Act (12 U.S.C. 1715z–20), as amended by the preceding provisions of this section, is further amended by adding at the end the following new subsection:

''(r) LIMITATION ON ORIGINATION FEES.—The Secretary shall establish limits on the origination fee that may be charged to a mortgagor under a mortgage insured under this section, which limitations shall—

''(1) equal 1.5 percent of the maximum claim amount of the mortgage unless adjusted thereafter on the basis of—

''(A) the costs to the mortgagor; and

''(B) the impact of such fees on the reverse mortgage market;

''(2) be subject to a minimum allowable amount;

''(3) provide that the origination fee may be fully financed with the mortgage;

''(4) include any fees paid to correspondent mortgagees approved by the Secretary; and

''(5) have the same effective date as subsection (m)(2) regarding the limitation on principal obligation.''.

SA 4489. Mrs. MCCASKILL submitted an amendment intended to be proposed by her to the bill H.R. 3221, moving the United States toward greater energy independence and security, developing innovative new technologies, reducing carbon emissions, creating green jobs, protecting consumers, increasing clean renewable energy production, and modernizing our energy infrastructure, and to amend the Internal Revenue Code of 1986 to provide tax incentives for the production of renewable energy and energy conservation; which was ordered to lie on the table; as follows:

On page 18, strike line 1 and all that follows through page 20, line 24, and insert the following:

SEC. 122. HOME EQUITY CONVERSION MORTGAGES.

(a) IN GENERAL.—Section 255 of the National Housing Act (12 U.S.C. 1715z–20) is amended—

(1) in subsection (b)(2), insert '' 'real estate,' '' after '' 'mortgagor','';

(2) by amending subsection (d)(1) to read as follows:

''(1) have been originated by a mortgagee approved by the Secretary;'';

(3) by amending subsection (d)(2)(B) to read as follows:

''(B) has received adequate counseling, as provided in subsection (f), by an independent third party that is not, either directly or indirectly, associated with or compensated by a party involved in—

''(i) originating or servicing the mortgage;

''(ii) funding the loan underlying the mortgage; or

''(iii) the sale of annuities, investments, long-term care insurance, or any other type of financial or insurance product;'';

(4) in subsection (f)—

(A) by striking ''(f) INFORMATION SERVICES FOR MORTGAGORS.—'' and inserting ''(f) COUNSELING SERVICES AND INFORMATION FOR MORTGAGORS.—''; and

(B) by amending the matter preceding paragraph (1) to read as follows: ''The Secretary shall provide or cause to be provided adequate counseling for the mortgagor, as described in subsection (d)(2)(B). Such counseling shall be provided by counselors that meet qualification standards and follow uniform counseling protocols. The qualification standards and counseling protocols shall be established by the Secretary within 12 months of the date of enactment of the Reverse Mortgage Proceeds Protection Act. The protocols shall require a qualified counselor to discuss with each mortgagor information which shall include—''

(5) in subsection (g), by striking ''established under section 203(b)(2)'' and all that follows through ''located'' and inserting ''limitation established under section 305(a)(2) of the Federal Home Loan Mortgage Corporation Act for a 1-family residence'';

(6) in subsection (i)(1)(C), by striking ''limitations'' and inserting ''limitation'';

(7) by striking subsection (l);

(8) by redesignating subsection (m) as subsection (l);

(9) by amending subsection (l), as so redesignated, to read as follows:

''(l) FUNDING FOR COUNSELING.—The Secretary may use a portion of the mortgage insurance premiums collected under the program under this section to adequately fund the counseling and disclosure activities required under subsection (f), including counseling for those homeowners who elect not to take out a home equity conversion mortgage, provided that the use of such funds is based upon accepted actuarial principles.''; and

(10) by adding at the end the following new subsection:

''(m) AUTHORITY TO INSURE HOME PURCHASE MORTGAGE.—

''(1) IN GENERAL.—Notwithstanding any other provision of this section, the Secretary may insure, upon application by a mortgagee, a home equity conversion mortgage upon such terms and conditions as the Secretary may prescribe, when the home equity conversion mortgage will be used to purchase a 1- to 4-family dwelling unit, one unit of which that the mortgagor will occupy as a primary residence, and to provide for any future payments to the mortgagor, based on available equity, as authorized under subsection (d)(9).

''(2) LIMITATION ON PRINCIPAL OBLIGATION.—A home equity conversion mortgage insured pursuant to paragraph (1) shall involve a principal obligation that does not exceed the dollar amount limitation determined under section 305(a)(2) of the Federal Home Loan Mortgage Corporation Act for a 1-family residence.

''(n) REQUIREMENTS ON MORTGAGE ORIGINATORS.—

''(1) IN GENERAL.—The mortgagee and any other party that participates in the origination of a mortgage to be insured under this section shall—

''(A) not participate in, be associated with, or employ any party that participates in or is associated with any other financial or insurance activity; or

''(B) demonstrate to the Secretary that the mortgagee or other party maintains, or will maintain, firewalls and other safeguards designed to ensure that—

''(i) individuals participating in the origination of the mortgage shall have no involvement with, or incentive to provide the mortgagor with, any other financial or insurance product; and

''(ii) the mortgagor shall not be required, directly or indirectly, as a condition of obtaining a mortgage under this section, to purchase any other financial or insurance product.

''(2) APPROVAL OF OTHER PARTIES.—All parties that participate in the origination of a mortgage to be insured under this section shall be approved by the Secretary.

''(o) PROHIBITION AGAINST REQUIREMENTS TO PURCHASE ADDITIONAL PRODUCTS.—The mortgagee or any other party shall not be required by the mortgagor or any other party to purchase an insurance, annuity, or other additional product as a requirement or condition of eligibility for a mortgage authorized under subsection (c).

''(p) REGULATIONS TO PROTECT ELDERLY HOMEOWNERS.—Not later than 12 months after the date of enactment of the Reverse Mortgage Proceeds Protection Act, the Secretary shall, in consultation with other relevant Federal departments and agencies, promulgate regulations to help protect elderly homeowners from the marketing of financial products not in the interest of such homeowners, including the marketing or sale of an annuity or investment associated with obtaining, or as a condition of obtaining, any home equity conversion mortgage. This subsection shall not be construed to preempt, supercede, or alter the authority of any State to regulate the provision of insurance in that State, including the sale or marketing of any insurance product.

''(q) STUDY TO DETERMINE CONSUMER PROTECTIONS AND UNDERWRITING STANDARDS.—The Secretary shall conduct a study to examine and determine appropriate consumer protections and underwriting standards to ensure that the purchase of products referred to in subsection (o) is appropriate for the consumer. In conducting such study, the Secretary shall consult with consumer advocates (including recognized experts in consumer protection), industry representatives, representatives of counseling organizations, and other interested parties.''.

(b) MORTGAGES FOR COOPERATIVES.—Subsection (b) of section 255 of the National Housing Act (12 U.S.C. 1715z–20(b)) is amended—

(1) in paragraph (4)—

(A) by inserting ''a first or subordinate mortgage or lien'' before ''on all stock'';

(B) by inserting ''unit'' after ''dwelling''; and

(C) by inserting ''a first mortgage or first lien'' before ''on a leasehold''; and

(2) in paragraph (5), by inserting ''a first or subordinate lien on'' before ''all stock''.

(c) LIMITATION ON ORIGINATION FEES.—Section 255 of the National Housing Act (12 U.S.C. 1715z–20), as amended by the preceding provisions of this section, is further amended by adding at the end the following new subsection:

''(r) LIMITATION ON ORIGINATION FEES.—The Secretary shall establish limits on the origination fee that may be charged to a mortgagor under a mortgage insured under this section, which limitations shall—

''(1) equal 1.5 percent of the maximum claim amount of the mortgage unless adjusted thereafter on the basis of—

''(A) the costs to the mortgagor; and

''(B) the impact of such fees on the reverse mortgage market;

''(2) be subject to a minimum allowable amount;

''(3) provide that the origination fee may be fully financed with the mortgage;

''(4) include any fees paid to correspondent mortgagees approved by the Secretary; and

''(5) have the same effective date as subsection (m)(2) regarding the limitation on principal obligation.''.

SA 4490. Mr. HAGEL (for himself and Mr. SUNUNU) submitted an amendment intended to be proposed by him to the bill H.R. 3221, moving the United States toward greater energy independence and security, developing innovative new technologies, reducing carbon emissions, creating green jobs, protecting consumers, increasing clean renewable energy production, and modernizing our energy infrastructure, and to amend the Internal Revenue Code of 1986 to provide tax incentives for the production of renewable energy and energy conservation; which was ordered to lie on the table; as follows:

At the end, add the following:

DIVISION B—FEDERAL HOUSING ENTERPRISE REFORM

SECTION 2001. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Division may be cited as the ''Federal Housing Enterprise Regulatory Reform Act of 2008''.

(b) TABLE OF CONTENTS.—The table of contents for this Division is as follows:

SEC. 2002. DEFINITIONS.

(a) FEDERAL SAFETY AND SOUNDNESS ACT DEFINITIONS.—Section 1303 of the Federal Housing Enterprises Financial Safety and

Soundness Act of 1992 (12 U.S.C. 4502) is amended—

(1) in each of paragraphs (8), (9), (10), and (19), by striking ''Secretary'' each place that term appears and inserting ''Director'';

(2) in paragraph (14), by striking ''Office of Federal Housing Enterprise Oversight of the Department of Housing and Urban Development'' and inserting ''Federal Housing Enterprise Regulatory Agency'';

(3) by redesignating paragraphs (16) through (19) as paragraphs (22) through (25), respectively;

(4) by striking paragraph (15) and inserting the following:

''(21) REGULATED ENTITY.—The term 'regulated entity' means—

''(A) the Federal National Mortgage Association and any affiliate thereof;

''(B) the Federal Home Loan Mortgage Corporation and any affiliate thereof; and

''(C) any Federal Home Loan Bank.'';

(5) by striking paragraph (13);

(6) by redesignating paragraph (7) as paragraph (13);

(7) by redesignating paragraphs (11), (12), and (14) as paragraphs (18) through (20), respectively;

(8) by striking paragraphs (8) through (10) and inserting the following:

''(15) LOW-INCOME.—The term 'low-income' means a family income that is less than 50 percent of the area median income, or a family income that is less than 50 percent of the area median income.

''(16) MEDIAN INCOME.—The term 'area median income' means—

''(A) the median family income for a metropolitan statistical area (as designated under 13 U.S.C. 421), if the family is located in a metropolitan statistical area; or

''(B) the statewide nonmetropolitan median family income, if the family is located outside a metropolitan statistical area.

''(17) MODERATE-INCOME.—The term 'moderate-income' means an individual income that is at least 50 percent and less than 80 percent of the area median income, or a median family income that is at least 50 percent and not more than 80 percent of the area median income.'';

(9) in paragraph (5)—

(A) by striking ''(5)'' and inserting ''(9)''; and

(B) by striking ''Office of Federal Housing Enterprise Oversight of the Department of Housing and Urban Development'' and inserting ''Federal Housing Enterprise Regulatory Agency'';

(10) by redesignating paragraph (6) as paragraph (10);

(11) by redesignating paragraphs (2) through (4) as paragraphs (5) through (7), respectively;

(12) by inserting after paragraph (7), as redesignated, the following:

''(8) DEFAULT; IN DANGER OF DEFAULT.—

''(A) DEFAULT.—The term 'default' means, with respect to a regulated entity, any adjudication or other official determination by any court of competent jurisdiction, or the Agency, pursuant to which a conservator, receiver, limited-life regulated entity, or legal custodian is appointed for a regulated entity.

''(B) IN DANGER OF DEFAULT.—The term 'in danger of default' means a regulated entity with respect to which—

''(i) in the opinion of the Agency—

''(I) the regulated entity is not likely to be able to pay the obligations of the regulated entity in the normal course of business; or

''(II) the regulated entity has incurred or is likely to incur losses that will deplete all or substantially all of its capital; and

''(ii) there is no reasonable prospect that the capital of the regulated entity will be replenished.'';

(13) by inserting after paragraph (1) the following:

''(2) AGENCY; DIRECTOR.—The term—

''(A) 'Agency' means the Federal Housing Enterprise Regulatory Agency established under section 1311; and

''(B) 'Director' means the Director of the Agency, appointed under section 1312;

''(3) AUTHORIZING STATUTES.—The term 'authorizing statutes' means—

''(A) the Federal National Mortgage Association Charter Act;

''(B) the Federal Home Loan Mortgage Corporation Act; and

''(C) the Federal Home Loan Bank Act.

''(4) BOARD.—The term 'Board' means the Federal Housing Enterprise Board established under section 1313A.'';

(14) by inserting after paragraph (10), as redesignated, the following:

''(11) ENTITY-AFFILIATED PARTY.—The term 'entity-affiliated party' means—

''(A) any director, officer, employee, or controlling stockholder of, or agent for, a regulated entity;

''(B) any shareholder, affiliate, consultant, or joint venture partner of a regulated entity, and any other person, as determined by the Director (by regulation or on a case-by-case basis) that participates in the conduct of the affairs of a regulated entity, provided that a member of a Federal Home Loan Bank shall not be deemed to have participated in the affairs of that Bank solely by virtue of being a shareholder of, and obtaining advances from, that Bank;

''(C) any independent contractor for a regulated entity (including any attorney, appraiser, or accountant), if—

''(i) the independent contractor knowingly or recklessly participates in—

''(I) any violation of any law or regulation;

''(II) any breach of fiduciary duty; or

''(III) any unsafe or unsound practice; and

''(ii) such violation, breach, or practice caused, or is likely to cause, more than a minimal financial loss to, or a significant adverse effect on, the regulated entity; and

''(D) any not-for-profit corporation that receives its principal funding, on an ongoing basis, from any regulated entity; and

''(E) the Finance Facility.

''(12) FINANCE FACILITY.—The term 'Finance Facility' means the Federal Home Loan Bank Finance Facility established under section 11A of the Federal Home Loan Bank Act.

''(13) LIMITED-LIFE REGULATED ENTITY.—The term 'limited-life regulated entity' means an entity established by the Agency under section 1367(i) with respect to a Federal Home Loan Bank in default or in danger of default or with respect to an enterprise in default or in danger of default.'';

(15) in paragraph (25), as so redesignated by this section, by striking ''60'' each place that term appears and inserting ''30''; and

(16) by adding at the end the following:

''(26) UPPER- AND MIDDLE-INCOME.—

''(A) UPPER-INCOME.—The term 'upper-income' means a family income that is 120 percent of the area median income or greater.

''(B) MIDDLE-INCOME.—The term 'middle-income' means a family income that is not less than 80 percent but less than 120 percent of the area median income, or a median family income that is at least 80 percent and not more than 120 percent.

''(27) VIOLATION.—The term 'violation' includes any action (alone or in combination with another or others) for or toward causing, bringing about, participating in, counseling, or aiding or abetting a violation.''.

(b) REFERENCES IN THIS DIVISION.—As used in this Division, unless otherwise specified—

(1) the term ''Agency'' means the Federal Housing Enterprise Regulatory Agency;

(2) the term ''Director'' means the Director of the Agency; and

(3) the terms ''enterprise'', ''Finance Facility'', ''regulated entity'', and ''authorizing statutes'' have the same meanings as in section 1303 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992, as amended by this Division.

TITLE I—REFORM OF REGULATION OF ENTERPRISES

Subtitle A—Improvement of Safety and Soundness Supervision

SEC. 2101. ESTABLISHMENT OF THE FEDERAL HOUSING ENTERPRISE REGULATORY AGENCY.

The Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4501 et seq.) is amended by striking sections 1311 and 1312 and inserting the following:

''SEC. 1311. ESTABLISHMENT OF THE FEDERAL HOUSING ENTERPRISE REGULATORY AGENCY.

''(a) ESTABLISHMENT.—There is established the Federal Housing Enterprise Regulatory Agency, which shall be an independent agency of the Federal Government.

''(b) GENERAL SUPERVISORY AND REGULATORY AUTHORITY.—

''(1) IN GENERAL.—Each regulated entity shall, to the extent provided in this title, be subject to the supervision and regulation of the Agency.

''(2) AUTHORITY OVER FANNIE MAE, FREDDIE MAC, THE FEDERAL HOME LOAN BANKS, AND THE FINANCE FACILITY.—The Director shall have general regulatory authority over each regulated entity and the Finance Facility, and shall exercise such general regulatory authority, including such duties and authorities set forth under section 1313, to ensure that the purposes of this Act, the authorizing statutes, and any other applicable law are carried out.

''(c) SAVINGS PROVISION.—The authority of the Director to take actions under subtitles B and C shall not in any way limit the general supervisory and regulatory authority granted to the Director under subsection (b).

''SEC. 1312. DIRECTOR.

''(a) ESTABLISHMENT OF POSITION.—There is established the position of the Director of the Agency, who shall be the head of the Agency.

''(b) APPOINTMENT; TERM.—

''(1) APPOINTMENT.—The Director shall be appointed by the President, by and with the advice and consent of the Senate, from among individuals who are citizens of the United States, have a demonstrated understanding of financial management or oversight, and have a demonstrated understanding of capital markets, including the mortgage securities markets and housing finance.

''(2) TERM.—The Director shall be appointed for a term of 6 years, unless removed before the end of such term for cause by the President.

''(3) VACANCY.—A vacancy in the position of Director that occurs before the expiration of the term for which a Director was appointed shall be filled in the manner established under paragraph (1), and the Director appointed to fill such vacancy shall be appointed only for the remainder of such term.

''(4) SERVICE AFTER END OF TERM.—An individual may serve as the Director after the expiration of the term for which appointed until a successor has been appointed.

''(5) TRANSITIONAL PROVISION.—Notwithstanding paragraphs (1) and (2), during the period beginning on the effective date of the Federal Housing Enterprise Regulatory Reform Act of 2008, and ending on the date on which the Director is appointed and confirmed, the person serving as the Director of the Office of Federal Housing Enterprise

Oversight of the Department of Housing and Urban Development on that effective date shall act for all purposes as, and with the full powers of, the Director.

''(c) DEPUTY DIRECTOR OF THE DIVISION OF ENTERPRISE REGULATION.—

''(1) IN GENERAL.—The Agency shall have a Deputy Director of the Division of Enterprise Regulation, who shall be designated by the Director from among individuals who are citizens of the United States, have a demonstrated understanding of financial management or oversight, and have a demonstrated understanding of mortgage securities markets and housing finance.

''(2) FUNCTIONS.—The Deputy Director of the Division of Enterprise Regulation shall have such functions, powers, and duties with respect to the oversight of the enterprises as the Director shall prescribe.

''(d) DEPUTY DIRECTOR OF THE DIVISION OF FEDERAL HOME LOAN BANK REGULATION.—

''(1) IN GENERAL.—The Agency shall have a Deputy Director of the Division of Federal Home Loan Bank Regulation, who shall be designated by the Director from among individuals who are citizens of the United States, have a demonstrated understanding of financial management or oversight, and have a demonstrated understanding of the Federal Home Loan Bank System and housing finance.

''(2) FUNCTIONS.—The Deputy Director of the Division of Federal Home Loan Bank Regulation shall have such functions, powers, and duties with respect to the oversight of the Federal Home Loan Banks as the Director shall prescribe.

''(e) DEPUTY DIRECTOR FOR HOUSING MISSION AND GOALS.—

''(1) IN GENERAL.—The Agency shall have a Deputy Director for Housing Mission and Goals, who shall be designated by the Director from among individuals who are citizens of the United States, and have a demonstrated understanding of the housing markets and housing finance.

''(2) FUNCTIONS.—The Deputy Director for Housing Mission and Goals shall have such functions, powers, and duties with respect to the oversight of the housing mission and goals of the regulated entities as the Director shall prescribe.

''(f) ACTING DIRECTOR.—In the event of the death, resignation, sickness, or absence of the Director, the President shall designate either the Deputy Director of the Division of Enterprise Regulation, the Deputy Director of the Division of Federal Home Loan Bank Regulation, or the Deputy Director for Housing Mission and Goals, to serve as acting Director until the return of the Director, or the appointment of a successor pursuant to subsection (b).

''(g) LIMITATIONS.—The Director and each of the Deputy Directors may not—

''(1) have any direct or indirect financial interest in any regulated entity or entity-affiliated party;

''(2) hold any office, position, or employment in any regulated entity or entity-affiliated party; or

''(3) have served as an executive officer or director of any regulated entity or entity-affiliated party at any time during the 3-year period preceding the date of appointment of such individual as Director or Deputy Director.''.

SEC. 2102. DUTIES AND AUTHORITIES OF DIRECTOR.

(a) IN GENERAL.—Section 1313 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4513) is amended to read as follows:

''SEC. 1313. DUTIES AND AUTHORITIES OF DIRECTOR.

''(a) DUTIES.—

''(1) PRINCIPAL DUTIES.—The principal duties of the Director shall be—

''(A) to oversee the prudential operations of each regulated entity; and

''(B) to ensure that—

''(i) each regulated entity operates in a safe and sound manner, including maintenance of adequate capital and internal controls;

''(ii) the operations and activities of each regulated entity foster liquid, efficient, competitive, and resilient national housing finance markets (including activities relating to mortgages on housing for low- and moderate-income families involving a reasonable economic return that may be less than the return earned on other activities);

''(iii) each regulated entity complies with this title and the rules, regulations, guidelines, and orders issued under this title and the authorizing statutes;

''(iv) each regulated entity carries out its statutory mission only through activities that are authorized under and consistent with this title and the authorizing statutes;

''(v) the activities of each regulated entity and the manner in which such regulated entity is operated are consistent with the public interest;

''(vi) each regulated entity remains adequately capitalized, after due consideration of the risk to such regulated entity; and

''(vii) in the case of the Federal Home Loan Banks, they provide funds to community financial institutions for small businesses, small farms, and small agricultural businesses and accept as collateral whole interests in such obligations.

''(2) SCOPE OF AUTHORITY.—The authority of the Director shall include the authority—

''(A) to review and, if warranted based on the principle duties described in paragraph (1), reject any acquisition or transfer of a controlling interest in a regulated entity; and

''(B) to exercise such incidental powers as may be necessary or appropriate to fulfill the duties and responsibilities of the Director in the supervision and regulation of each regulated entity.

''(b) DELEGATION OF AUTHORITY.—The Director may delegate to officers and employees of the Agency any of the functions, powers, or duties of the Director, as the Director considers appropriate.

''(c) LITIGATION AUTHORITY.—

''(1) IN GENERAL.—In enforcing any provision of this title, any regulation or order prescribed under this title, or any other provision of law, rule, regulation, or order, or in any other action, suit, or proceeding to which the Director is a party or in which the Director is interested, and in the administration of conservatorships and receiverships, the Director may act in the Director's own name and through the Director's own attorneys.

''(2) SUBJECT TO SUIT.—Except as otherwise provided by law, the Director shall be subject to suit (other than suits on claims for money damages) by a regulated entity with respect to any matter under this title or any other applicable provision of law, rule, order, or regulation under this title, in the United States district court for the judicial district in which the regulated entity has its principle place of business, or in the United States District Court for the District of Columbia, and the Director may be served with process in the manner prescribed by the Federal Rules of Civil Procedure.''.

(b) INDEPENDENCE IN CONGRESSIONAL TESTIMONY AND RECOMMENDATIONS.—Section 111 of Public Law 93–495 (12 U.S.C. 250) is amended by striking ''the Federal Housing Finance Board'' and inserting ''the Director of the Federal Housing Enterprise Regulatory Agency''.

SEC. 2103. FEDERAL HOUSING ENTERPRISE BOARD.

(a) IN GENERAL.—The Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4501 et seq.) is amended by inserting after section 1313 the following:

''SEC. 1313A. FEDERAL HOUSING ENTERPRISE BOARD.

''(a) IN GENERAL.—There is established the Federal Housing Enterprise Board, which shall advise the Director with respect to overall strategies and policies in carrying out the duties of the Director under this title.

''(b) LIMITATIONS.—The Board may not exercise any executive authority, and the Director may not delegate to the Board any of the functions, powers, or duties of the Director.

''(c) COMPOSITION.—The Board shall be comprised of 4 members, of whom—

''(1) 1 member shall be the Secretary of the Treasury;

''(2) 1 member shall be the Secretary of Housing and Urban Development;

''(3) 1 member shall be the Chairman of the Securities and Exchange Commission; and

''(4) 1 member shall be the Director, who shall serve as the Chairperson of the Board.

''(d) MEETINGS.—

''(1) IN GENERAL.—The Board shall meet upon notice by the Director, but in no event shall the Board meet less frequently than once every 3 months.

''(2) SPECIAL MEETINGS.—Either the Secretary of the Treasury, the Secretary of Housing and Urban Development, or the Chairman of the Securities and Exchange Commission may, upon giving written notice to the Director, require a special meeting of the Board.

''(e) TESTIMONY.—On an annual basis, the Board shall testify before Congress regarding—

''(1) the safety and soundness of the regulated entities;

''(2) any material deficiencies in the conduct of the operations of the regulated entities;

''(3) the overall operational status of the regulated entities;

''(4) an evaluation of the performance of the regulated entities in carrying out their respective missions;

''(5) operations, resources, and performance of the Agency; and

''(6) such other matters relating to the Agency and its fulfillment of its mission, as the Board determines appropriate.''.

(b) ANNUAL REPORT OF THE DIRECTOR.—Section 1319B(a) of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4521(a)) is amended—

(1) by striking ''enterprise'' each place that term appears and inserting ''regulated entity'';

(2) by striking ''enterprises'' each place that term appears and inserting ''regulated entities'';

(3) in paragraph (3), by striking ''; and'' and inserting a semicolon;

(4) in paragraph (4), by striking ''1994.'' and inserting ''1994; and''; and

(5) by adding at the end the following:

''(5) the assessment of the Board or any of its members with respect to—

''(A) the safety and soundness of the regulated entities;

''(B) any material deficiencies in the conduct of the operations of the regulated entities;

''(C) the overall operational status of the regulated entities; and

''(D) an evaluation of the performance of the regulated entities in carrying out their respective missions;

''(6) operations, resources, and performance of the Agency; and

''(7) such other matters relating to the Agency and the fulfillment of its mission.''.

SEC. 2104. AUTHORITY TO REQUIRE REPORTS BY REGULATED ENTITIES.

(a) IN GENERAL.—Section 1314 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4514) is amended—

(1) in the section heading, by striking ''**ENTERPRISES**'' and inserting ''**REGULATED ENTITIES**'';

(2) by striking ''an enterprise'' each place that term appears and inserting ''a regulated entity'';

(3) by striking ''the enterprise'' and inserting ''the regulated entity'';

(4) in subsection (a)—

(A) by striking the subsection heading and all that follows through ''and operations'' in paragraph (1) and inserting the following:

''(a) REGULAR AND SPECIAL REPORTS.—

''(1) REGULAR REPORTS.—The Director may require, by general or specific orders, a regulated entity to submit regular reports, including financial statements determined on a fair value basis, on the condition (including financial condition), management, activities, or operations of the regulated entity, as the Director considers appropriate''; and

(B) in paragraph (2)—

(i) by inserting '', by general or specific orders,'' after ''may also require''; and

(ii) by striking ''whenever'' and inserting ''on any of the topics specified in paragraph (1) or any other relevant topics, if''; and

(5) by adding at the end the following:

''(c) PENALTIES FOR FAILURE TO MAKE REPORTS.—

''(1) VIOLATIONS.—It shall be a violation of this section for any regulated entity—

''(A) to fail to make, obtain, transmit, or publish any report or information required by the Director under this section, section 309(k) of the Federal National Mortgage Association Charter Act, or section 307(c) of the Federal Home Loan Mortgage Corporation Act, within the period of time specified in such provision of law or otherwise by the Director; or

''(B) to submit or publish any false or misleading report or information under this section.

''(2) PENALTIES.—

''(A) TIER 1.—

''(i) IN GENERAL.—A violation described in paragraph (1) shall be subject to a penalty of not more than $2,000 for each day during which such violation continues, in any case in which—

''(I) the subject regulated entity maintains procedures reasonably adapted to avoid any inadvertent error and the violation was unintentional and a result of such an error; or

''(II) the violation was an inadvertent transmittal or publication of any report which was minimally late.

''(ii) BURDEN OF PROOF.—For purposes of this subparagraph, the regulated entity shall have the burden of proving that the error was inadvertent or that a report was inadvertently transmitted or published late.

''(B) TIER 2.—A violation described in paragraph (1) shall be subject to a penalty of not more than $20,000 for each day during which such violation continues or such false or misleading information is not corrected, in any case that is not addressed in subparagraph (A) or (C).

''(C) TIER 3.—A violation described in paragraph (1) shall be subject to a penalty of not more than $2,000,000 per day for each day during which such violation continues or such false or misleading information is not corrected, in any case in which the subject regulated entity committed such violation knowingly or with reckless disregard for the accuracy of any such information or report.

''(3) ASSESSMENTS.—Any penalty imposed under this subsection shall be in lieu of a penalty under section 1376, but shall be assessed and collected by the Director in the manner provided in section 1376 for penalties imposed under that section, and any such assessment (including the determination of the amount of the penalty) shall be otherwise subject to the provisions of section 1376.

''(4) HEARING.—A regulated entity against which a penalty is assessed under this section shall be afforded an agency hearing if the regulated entity submits a request for a hearing not later than 20 days after the date of the issuance of the notice of assessment. Section 1374 shall apply to any such proceedings.''.

(b) CONFORMING AMENDMENT.—The Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4501 et seq.) is amended by striking sections 1327 and 1328.

SEC. 2105. EXAMINERS AND ACCOUNTANTS; AUTHORITY TO CONTRACT FOR REVIEWS OF REGULATED ENTITIES.

(a) IN GENERAL.—Section 1317 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4517) is amended—

(1) in subsection (a), by striking ''enterprise'' each place that term appears and inserting ''regulated entity'';

(2) in subsection (b), by striking ''an enterprise'' and inserting ''a regulated entity'';

(3) in subsection (c), in the second sentence, by inserting before the period ''to conduct examinations under this section'';

(4) by redesignating subsections (d) through (f) as subsections (e) through (g), respectively; and

(5) by inserting after subsection (c) the following:

''(d) INSPECTOR GENERAL.—There shall be within the Agency an Inspector General, who shall be appointed in accordance with section 3(a) of the Inspector General Act of 1978.''.

(b) DIRECT HIRE AUTHORITY TO HIRE ACCOUNTANTS, ECONOMISTS, AND EXAMINERS.—Section 1317 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4517) is amended by adding at the end the following:

''(h) APPOINTMENT OF ACCOUNTANTS, ECONOMISTS, AND EXAMINERS.—

''(1) APPLICABILITY.—This section shall apply with respect to any position of examiner, accountant, economist, and specialist in financial markets and in technology at the Agency, with respect to supervision and regulation of the regulated entities, that is in the competitive service.

''(2) APPOINTMENT AUTHORITY.—The Director may appoint candidates to any position described in paragraph (1)—

''(A) in accordance with the statutes, rules, and regulations governing appointments in the excepted service; and

''(B) notwithstanding any statutes, rules, and regulations governing appointments in the competitive service.''.

(c) AMENDMENTS TO INSPECTOR GENERAL ACT.—Section 11 of the Inspector General Act of 1978 (5 U.S.C. 11 App.) is amended—

(1) in paragraph (1), by inserting '', the Director of the Federal Housing Enterprises Regulatory Agency'' after ''Social Security Administration''; and

(2) in paragraph (2), by inserting '', the Federal Housing Enterprises Regulatory Agency'' after ''Social Security Administration''.

(d) AUTHORITY TO CONTRACT FOR REVIEWS OF REGULATED ENTITIES.—Section 1319 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4519) is amended in the section heading, by striking ''**BY RATING ORGANIZATION**''.

SEC. 2106. ASSESSMENTS.

Section 1316 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4516) is amended—

(1) by striking subsection (a) and inserting the following:

''(a) ANNUAL ASSESSMENTS.—The Director shall establish and collect from the regulated entities annual assessments in an amount not exceeding the amount sufficient to provide for reasonable costs and expenses of the Agency, including—

''(1) the expenses of any examinations under section 1317;

''(2) the expenses of obtaining any reviews and credit assessments under section 1319; and

''(3) such amounts in excess of actual expenses for any given fiscal year, as deemed necessary by the Director to maintain working capital.'';

(2) by striking ''an enterprise'' each place that term appears and inserting ''a regulated entity'';

(3) by striking ''enterprises'' each place that term appears and inserting ''regulated entities'';

(4) by striking ''enterprise'' each place that term appears, other than in subparagraph (B) of subsection (b)(3), and inserting ''regulated entity'';

(5) in subsection (b)—

(A) in paragraph (1)—

(i) by striking ''bears to'' and inserting ''bear to''; and

(ii) by striking ''both'' and inserting ''all''; and

(B) in paragraph (3)(B)—

(i) by inserting ''with respect to an enterprise,'' before ''the unpaid principal''; and

(ii) by striking ''by the enterprise'' and inserting ''by an enterprise'';

(6) in subsection (c)—

(A) by striking ''The semiannual'' and inserting the following:

''(1) IN GENERAL.—The semiannual''; and

(B) by adding at the end the following:

''(2) ADJUSTMENTS.—The Director may adjust the amounts of any semiannual assessments for an assessment under subsection (a) that are to be paid pursuant to subsection (b) by a regulated entity, as the Director determines necessary to ensure that the costs of enforcement activities under subtitles B and C for a regulated entity are borne only by that regulated entity.

''(3) SPECIAL CIRCUMSTANCES.—If at any time, as a result of increased costs of regulation of a regulated entity that is not classified (for purposes of subtitle B) as adequately capitalized, or as the result of supervisory or enforcement activities under subtitle B or C for a regulated entity, the amount available from any semiannual payment made by such regulated entity pursuant to subsection (b) is insufficient to cover the costs of the Agency with respect to such entity, the Director may make and collect from such entity an immediate assessment to cover the amount of such deficiency for the semiannual period. If, at the end of any semiannual period during which such an assessment is made, any amount remains from such assessment, such remaining amount shall be deducted from the assessment for such regulated entity for the following semiannual period.'';

(7) in subsection (d), by striking ''If'' and inserting ''Except with respect to amounts collected pursuant to subsection (a)(3), if'';

(8) by striking subsections (e) and (f) and inserting the following:

''(e) REMISSION OF ASSESSMENT.—At the end of each year for which an assessment under this section is made, the Director shall remit to each regulated entity any amount of an assessment collected from the regulated entity that is attributable to subsection (a)(3), and is in excess of the amount

that the Director deems necessary to maintain working capital.

''(f) NO APPROPRIATED FUNDS.—Salaries of the Director and other employees of the Agency, and all other expenses thereof, may be paid from assessments collected under this subsection or other sources, and shall not be construed to be Government funds or appropriated monies, or subject to apportionment for the purposes of chapter 15 of title 31, United States Code, or any other authority.''; and

(9) in subsection (g)—

(A) by striking ''the Secretary and'' each place that term appears; and

(B) in paragraph (3)—

(i) by striking ''(A)''; and

(ii) by striking '', and (B)'' and all that follows through the end of the paragraph and inserting a period.

SEC. 2107. REGULATIONS AND ORDERS.

Section 1319G of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4526) is amended—

(1) by striking subsection (a) and inserting the following:

''(a) AUTHORITY.—The Director shall issue any regulations, guidelines, directives, or orders necessary to carry out the duties of the Director under this title or the authorizing statutes, and to ensure that the purposes of this title and the authorizing statutes are accomplished.''; and

(2) by striking subsection (c).

SEC. 2108. PRUDENTIAL MANAGEMENT AND OPERATIONS STANDARDS.

The Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4501 et seq.) is amended by inserting after section 1313A, as added by this Division, the following new section:

''SEC. 1313B. PRUDENTIAL MANAGEMENT AND OPERATIONS STANDARDS.

''The Director may establish standards, by regulation, order, or guideline, for each regulated entity relating to—

''(1) adequacy of internal controls and information systems taking into account the nature and scale of business operations;

''(2) independence and adequacy of internal audit systems;

''(3) management of interest rate risk exposure;

''(4) management of market risk, including standards that provide for systems that accurately measure, monitor, and control market risks and, as warranted, that establish limitations on market risk;

''(5) adequacy and maintenance of liquidity and reserves;

''(6) management of asset and investment portfolio growth;

''(7) investments and acquisitions of assets by a regulated entity, to ensure that they are consistent with the purposes of this title and the authorizing statutes;

''(8) overall risk management processes, including adequacy of oversight by senior management and the board of directors and of processes and policies to identify, measure, monitor, and control material risks, including reputational risks, and for adequate, well-tested business resumption plans for all major systems with remote site facilities to protect against disruptive events; and

''(9) such other operational and management standards as the Director determines to be appropriate.''.

SEC. 2109. CAPITAL LEVELS AND HOLDINGS.

Subtitle B of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4611 et seq.) is amended—

(1) by striking the subtitle designation and heading and inserting the following:

''Subtitle B—Required Capital Levels for Enterprises, Special Enforcement Powers, Limitation on Assets, and Securities Treatment'';

and

(2) by adding at the end the following:

''SEC. 1369E. AFFORDABLE HOUSING FOCUSED PORTFOLIOS.

''(a) SUPPORTING AFFORDABLE HOUSING.—Congress finds that, consistent with the missions of the enterprises, the portfolio holdings of the enterprises should be focused, to the maximum extent possible, on mortgages and mortgage-backed securities that meet the affordable housing goals established for the enterprises pursuant to this Act.

''(b) AUTHORITY OF THE DIRECTOR.—The Director shall, by regulation, provide that any mortgages or mortgage-related securities acquired by an enterprise after the date of enactment of this Act shall—

''(1) meet one or more of the housing goals established for the enterprise under this Act; or

''(2) be promptly securitized and sold to third parties.

''(c) TEMPORARY ADJUSTMENTS.—The Director may, by order, make temporary adjustments to the standards under subsection (b), if such action would help to mitigate market disruptions in the housing finance system.''.

SEC. 2110. RISK-BASED CAPITAL TEST FOR ENTERPRISES.

(a) RISK-BASED CAPITAL LEVELS.—Section 1361 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4611) is amended to read as follows:

''SEC. 1361. RISK-BASED CAPITAL LEVELS.

''(a) IN GENERAL.—The Director shall, by regulation or order, establish risk-based capital requirements for each of the enterprises to ensure that the enterprises operate in a safe and sound manner, with sufficient capital and reserves to support the risks that arise in the operations and management of each enterprise.

''(b) NO LIMITATION.—Nothing in this section limits the authority of the Director to require other reports or undertakings in furtherance of the responsibilities of the Director under this Act.''.

(b) MINIMUM CAPITAL LEVELS FOR REGULATED ENTITIES.—

(1) ENTERPRISES.—Section 1362 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4612) is amended—

(A) in the section heading, by inserting ''for enterprises'' after ''levels''; and

(B) by striking subsection (b) and inserting the following:

''(b) REGULATORY DISCRETION.—The Director may, by regulation or order, establish a minimum capital level that is higher than the level specified in subsection (a).''.

(2) FEDERAL HOME LOAN BANKS.—Section 6(a)(2) of the Federal Home Loan Bank Act (12 U.S.C. 1426(a)(2)) is amended by adding at the end the following:

''(C) AUTHORITY TO ALTER LEVEL.—The Director may, by regulation or order, establish a minimum capital level that is higher than the level specified in subparagraph (A).''.

SEC. 2111. REGISTRATION OF ENTERPRISE SECURITIES.

(a) FANNIE MAE.—

(1) MORTGAGE-BACKED SECURITIES.—Section 304(d) of the Federal National Mortgage Association Charter Act (12 U.S.C. 1719(d)) is amended by striking the fourth sentence and inserting the following: ''Securities issued by the corporation under this subsection shall not be exempt securities for purposes of the Securities Act of 1933.''.

(2) SUBORDINATE OBLIGATIONS.—Section 304(e) of the Federal National Mortgage Association Charter Act (12 U.S.C. 1719(e)) is amended by striking the fourth sentence and inserting the following: ''Obligations issued by the corporation under this subsection shall not be exempt securities for purposes of the Securities Act of 1933.''.

(3) SECURITIES.—Section 311 of the Federal National Mortgage Association Charter Act (12 U.S.C. 1723c) is amended—

(A) in the section heading, by striking ''ASSOCIATION'';

(B) by inserting ''(a) IN GENERAL.—'' after ''SEC. 311.'';

(C) in the second sentence, by inserting ''by the Association'' after ''issued''; and

(D) by adding at the end the following:

''(b) TREATMENT OF CORPORATION SECURITIES.—

''(1) IN GENERAL.—Any stock, obligations, securities, participations, or other instruments issued or guaranteed by the corporation pursuant to this title shall not be exempt securities for purposes of the Securities Act of 1933.

''(2) EXEMPTION FOR APPROVED SELLERS.—Notwithstanding any other provision of this title or the Securities Act of 1933, transactions involving the initial disposition by an approved seller of pooled certificates that are acquired by that seller from the corporation upon the initial issuance of the pooled certificates shall be deemed to be transactions by a person other than an issuer, underwriter, or dealer for purposes of the Securities Act of 1933.

''(3) DEFINITIONS.—For purposes of this subsection, the following definitions shall apply:

''(A) APPROVED SELLER.—The term 'approved seller' means an institution approved by the corporation to sell mortgage loans to the corporation in exchange for pooled certificates.

''(B) POOLED CERTIFICATES.—The term 'pooled certificates' means single class mortgage-backed securities guaranteed by the corporation that have been issued by the corporation directly to the approved seller in exchange for the mortgage loans underlying such mortgage-backed securities.

''(4) MORTGAGE RELATED SECURITIES.—A single class mortgage-backed security guaranteed by the corporation that has been issued by the corporation directly to the approved seller in exchange for the mortgage loans underlying such mortgage-backed securities or directly by the corporation for cash shall be deemed to be a mortgage related security, as defined in section 3(a) of the Securities Exchange Act of 1934.''.

(b) FREDDIE MAC.—Section 306(g) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1455(g)) is amended to read as follows:

''(g) TREATMENT OF SECURITIES.—

''(1) IN GENERAL.—Any securities issued or guaranteed by the Corporation shall not be exempt securities for purposes of the Securities Act of 1933.

''(2) EXEMPTION FOR APPROVED SELLERS.—Notwithstanding any other provision of this title or the Securities Act of 1933, transactions involving the initial disposition by an approved seller of pooled certificates that are acquired by that seller from the Corporation upon the initial issuance of the pooled certificates shall be deemed to be transactions by a person other than an issuer, underwriter, or dealer for purposes of the Securities Act of 1933.

''(3) DEFINITIONS.—For purposes of this subsection, the following definitions shall apply:

''(A) APPROVED SELLER.—The term 'approved seller' means an institution approved by the Corporation to sell mortgage loans to the Corporation in exchange for pooled certificates.

''(B) POOLED CERTIFICATES.—The term 'pooled certificates' means single class mortgage-backed securities guaranteed by the

Corporation that have been issued by the Corporation directly to the approved seller in exchange for the mortgage loans underlying such mortgage-backed securities.''.

(c) LIMITATION ON FEES.—Section 6(b)(2) of the Securities Act of 1933 (15 U.S.C. 77f(b)(2)) is amended by adding at the end the following: ''Notwithstanding any other provision of this title, no applicant, or group of affiliated applicants that does not include any investment company registered under the Investment Company Act of 1940, filing a registration statement subject to a fee shall be required in any fiscal year with respect to all registration statements filed by such applicant in such fiscal year to pay an aggregate amount in fees to the Commission pursuant to this subsection in an amount that exceeds 5 percent of the target offsetting collection amount for such fiscal year. Fees paid in connection with registration statements relating to business combinations shall not be included in calculating the total fees paid by any such applicant.''.

(d) NO EFFECT ON OTHER LAW.—Nothing in this section or the amendments made by this section shall be construed to affect any exemption from the provisions of the Trust Indenture Act of 1939 provided to the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation.

(e) REGULATIONS.—The Securities and Exchange Commission may issue such regulations as may be necessary or appropriate to carry out this section and the amendments made by this section.

(f) EFFECTIVE DATE.—The amendments made by this section shall become effective 1 year after the date of enactment of this Act.

SEC. 2112. LIMIT ON GOLDEN PARACHUTES.

Section 1318 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4518) is amended by adding at the end the following:

''(c) AUTHORITY TO REGULATE OR PROHIBIT CERTAIN FORMS OF BENEFITS TO AFFILIATED PARTIES.—

''(1) GOLDEN PARACHUTES AND INDEMNIFICATION PAYMENTS.—The Agency may prohibit or limit, by regulation or order, any golden parachute payment or indemnification payment.

''(2) FACTORS TO BE TAKEN INTO ACCOUNT.—The Agency shall prescribe, by regulation, the factors to be considered by the Agency in taking any action pursuant to paragraph (1), which may include such factors as—

''(A) whether there is a reasonable basis to believe that the affiliated party has committed any fraudulent act or omission, breach of trust or fiduciary duty, or insider abuse with regard to the regulated entity that has had a material effect on the financial condition of the regulated entity;

''(B) whether there is a reasonable basis to believe that the affiliated party is substantially responsible for the insolvency of the regulated entity, the appointment of a conservator or receiver for the regulated entity, or the troubled condition of the regulated entity (as defined in regulations prescribed by the Agency);

''(C) whether there is a reasonable basis to believe that the affiliated party has materially violated any applicable provision of Federal or State law or regulation that has had a material affect on the financial condition of the regulated entity;

''(D) whether the affiliated party was in a position of managerial or fiduciary responsibility; and

''(E) the length of time that the party was affiliated with the regulated entity, and the degree to which—

''(i) the payment reasonably reflects compensation earned over the period of employment; and

''(ii) the compensation involved represents a reasonable payment for services rendered.

''(3) CERTAIN PAYMENTS PROHIBITED.—No regulated entity may prepay the salary or any liability or legal expense of any affiliated party if such payment is made—

''(A) in contemplation of the insolvency of such regulated entity, or after the commission of an act of insolvency; and

''(B) with a view to, or having the result of—

''(i) preventing the proper application of the assets of the regulated entity to creditors; or

''(ii) preferring one creditor over another.

''(4) GOLDEN PARACHUTE PAYMENT DEFINED.—

''(A) IN GENERAL.—For purposes of this subsection, the term 'golden parachute payment' means any payment (or any agreement to make any payment) in the nature of compensation by any regulated entity for the benefit of any affiliated party pursuant to an obligation of such regulated entity that—

''(i) is contingent on the termination of such party's affiliation with the regulated entity; and

''(ii) is received on or after the date on which—

''(I) the regulated entity became insolvent;

''(II) any conservator or receiver is appointed for such regulated entity; or

''(III) the Agency determines that the regulated entity is in a troubled condition (as defined in the regulations of the Agency).

''(B) CERTAIN PAYMENTS IN CONTEMPLATION OF AN EVENT.—Any payment which would be a golden parachute payment but for the fact that such payment was made before the date referred to in subparagraph (A)(ii) shall be treated as a golden parachute payment if the payment was made in contemplation of the occurrence of an event described in any subclause of such subparagraph.

''(C) CERTAIN PAYMENTS NOT INCLUDED.—For purposes of this subsection, the term 'golden parachute payment' shall not include—

''(i) any payment made pursuant to a retirement plan which is qualified (or is intended to be qualified) under section 401 of the Internal Revenue Code of 1986, or other nondiscriminatory benefit plan;

''(ii) any payment made pursuant to a bona fide deferred compensation plan or arrangement which the Board determines, by regulation or order, to be permissible; or

''(iii) any payment made by reason of the death or disability of an affiliated party.

''(5) OTHER DEFINITIONS.—For purposes of this subsection, the following definitions shall apply:

''(A) INDEMNIFICATION PAYMENT.—Subject to paragraph (6), the term 'indemnification payment' means any payment (or any agreement to make any payment) by any regulated entity for the benefit of any person who is or was an affiliated party, to pay or reimburse such person for any liability or legal expense with regard to any administrative proceeding or civil action instituted by the Agency which results in a final order under which such person—

''(i) is assessed a civil money penalty;

''(ii) is removed or prohibited from participating in conduct of the affairs of the regulated entity; or

''(iii) is required to take any affirmative action to correct certain conditions resulting from violations or practices, by order of the Agency.

''(B) LIABILITY OR LEGAL EXPENSE.—The term 'liability or legal expense' means—

''(i) any legal or other professional expense incurred in connection with any claim, proceeding, or action;

''(ii) the amount of, and any cost incurred in connection with, any settlement of any claim, proceeding, or action; and

''(iii) the amount of, and any cost incurred in connection with, any judgment or penalty imposed with respect to any claim, proceeding, or action.

''(C) PAYMENT.—The term 'payment' includes—

''(i) any direct or indirect transfer of any funds or any asset; and

''(ii) any segregation of any funds or assets for the purpose of making, or pursuant to an agreement to make, any payment after the date on which such funds or assets are segregated, without regard to whether the obligation to make such payment is contingent on—

''(I) the determination, after such date, of the liability for the payment of such amount; or

''(II) the liquidation, after such date, of the amount of such payment.

''(6) CERTAIN COMMERCIAL INSURANCE COVERAGE NOT TREATED AS COVERED BENEFIT PAYMENT.—No provision of this subsection shall be construed as prohibiting any regulated entity from purchasing any commercial insurance policy or fidelity bond, except that, subject to any requirement described in paragraph (5)(A)(iii), such insurance policy or bond shall not cover any legal or liability expense of the regulated entity which is described in paragraph (5)(A).''.

SEC. 2113. REPORTING OF FRAUDULENT LOANS.

Part 1 of subtitle C of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4631 et seq.), as amended by this Act, is amended by adding at the end the following:

''SEC. 1379E. REPORTING OF FRAUDULENT LOANS.

''(a) REQUIREMENT TO REPORT.—The Director shall require a regulated entity to submit to the Director a timely report upon discovery by the regulated entity that it has purchased or sold a fraudulent loan or financial instrument, or suspects a possible fraud relating to the purchase or sale of any loan or financial instrument. The Director shall require each regulated entity to establish and maintain procedures designed to discover any such transactions.

''(b) PROTECTION FROM LIABILITY FOR REPORTS.—Any regulated entity that makes a report pursuant to subsection (a), and any entity-affiliated party, that makes or requires another to make any such report, shall not be liable to any person under any provision of law or regulation, any constitution, law, or regulation of any State or political subdivision of any State, or under any contract or other legally enforceable agreement (including any arbitration agreement) for such report or for any failure to provide notice of such report to the person who is the subject of such report or any other persons identified in the report.''.

Subtitle B—Improvement of Mission Supervision

SEC. 2121. TRANSFER OF PRODUCT APPROVAL AND HOUSING GOAL OVERSIGHT.

Part 2 of subtitle A of title XIII of the Housing and Community Development Act of 1992 (12 U.S.C. 4541 et seq.) is amended—

(1) by striking the designation and heading for the part and inserting the following:

''PART 2—PRODUCT APPROVAL BY DIRECTOR, CORPORATE GOVERNANCE, AND ESTABLISHMENT OF HOUSING GOALS'';

and

(2) by striking sections 1321 and 1322.

SEC. 2122. REVIEW OF ENTERPRISE PRODUCTS.

(a) IN GENERAL.—Part 2 of subtitle A of title XIII of the Housing and Community Development Act of 1992 is amended by inserting before section 1323 (12 U.S.C. 4543) the following new section:

''SEC. 1321. PRIOR APPROVAL AUTHORITY FOR PRODUCTS OF ENTERPRISES.

''(a) IN GENERAL.—The Director shall require each enterprise to obtain the approval of the Director for any product of the enterprise before initially offering the product.

''(b) STANDARD FOR APPROVAL.—In considering any request for approval of a product pursuant to subsection (a), the Director shall make a determination that—

''(1) in the case of a product of the Federal National Mortgage Association, the Director determines that the product is authorized under paragraph (2), (3), (4), or (5) of section 302(b) or section 304 of the Federal National Mortgage Association Charter Act, (12 U.S.C. 1717(b), 1719);

''(2) in the case of a product of the Federal Home Loan Mortgage Corporation, the Director determines that the product is authorized under paragraph (1), (4), or (5) of section 305(a) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1454(a));

''(3) the product is in the public interest;

''(4) the product is consistent with the safety and soundness of the enterprise or the mortgage finance system; and

''(5) the product does not materially impair the efficiency of the mortgage finance system.

''(c) PROCEDURE FOR APPROVAL.—

''(1) SUBMISSION OF REQUEST.—An enterprise shall submit to the Director a written request for approval of a product that describes the product in such form as prescribed by order or regulation of the Director.

''(2) REQUEST FOR PUBLIC COMMENT.—Immediately upon receipt of a request for approval of a product, as required under paragraph (1), the Director shall publish notice of such request and of the period for public comment pursuant to paragraph (3) regarding the product, and a description of the product proposed by the request. The Director shall give interested parties the opportunity to respond in writing to the proposed product.

''(3) PUBLIC COMMENT PERIOD.—During the 30-day period beginning on the date of publication pursuant to paragraph (2) of a request for approval of a product, the Director shall receive public comments regarding the proposed product.

''(4) OFFERING OF PRODUCT.—

''(A) IN GENERAL.—Not later than 30 days after the close of the public comment period described in paragraph (3), the Director shall approve or deny the product, specifying the grounds for such decision in writing.

''(B) FAILURE TO ACT.—If the Director fails to act within the 30-day period described in subparagraph (A), the enterprise may offer the product.

''(d) EXPEDITED REVIEW.—

''(1) DETERMINATION AND NOTICE.—If an enterprise determines that any new activity, service, undertaking, or offering is not a product, as defined in subsection (f), the enterprise shall provide written notice to the Director prior to the commencement of such activity, service, undertaking, or offering.

''(2) DIRECTOR DETERMINATION OF APPLICABLE PROCEDURE.—Immediately upon receipt of any notice pursuant to paragraph (1), the Director shall make a determination under paragraph (3).

''(3) DETERMINATION AND TREATMENT AS PRODUCT.—If the Director determines that any new activity, service, undertaking, or offering consists of, relates to, or involves a product—

''(A) the Director shall notify the enterprise of the determination;

''(B) the new activity, service, undertaking, or offering described in the notice under paragraph (1) shall be considered a product for purposes of this section; and

''(C) the enterprise shall withdraw its request or submit a written request for approval of the product pursuant to subsection (c).

''(e) CONDITIONAL APPROVAL.—The Director may conditionally approve the offering of any product by an enterprise, and may establish terms, conditions, or limitations with respect to such product with which the enterprise must comply in order to offer such product.

''(f) DEFINITION OF PRODUCT.—For purposes of this section, the term 'product' does not include—

''(1) the automated loan underwriting system of an enterprise in existence as of the date of the enactment of the Federal Housing Finance Reform Act of 2007, including any upgrade to the technology, operating system, or software to operate the underwriting system; or

''(2) any modification to the mortgage terms and conditions or mortgage underwriting criteria relating to the mortgages that are purchased or guaranteed by an enterprise: *Provided,* That such modifications do not alter the underlying transaction so as to include services or financing, other than residential mortgage financing, or create significant new exposure to risk for the enterprise or the holder of the mortgage.

''(g) NO LIMITATION.—Nothing in this section shall be deemed to restrict—

''(1) the safety and soundness authority of the Director over all new and existing products or activities; or

''(2) the authority of the Director to review all new and existing products or activities to determine that such products or activities are consistent with the statutory mission of the enterprise.''.

(b) CONFORMING AMENDMENTS.—

(1) FANNIE MAE.—Section 302(b)(6) of the Federal National Mortgage Association Charter Act (12 U.S.C. 1717(b)(6)) is amended—

(A) by striking ''implement any new program'' and inserting ''initially offer any product'';

(B) by striking ''section 1303'' and inserting ''section 1321(f)''; and

(C) by striking ''before obtaining the approval of the Secretary under section 1322'' and inserting ''except in accordance with section 1321''.

(2) FREDDIE MAC.—Section 305(c) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1454(c)) is amended—

(A) by striking ''implement any new program'' and inserting ''initially offer any product'';

(B) by striking ''section 1303'' and inserting ''section 1321(f)''; and

(C) by striking ''before obtaining the approval of the Secretary under section 1322'' and inserting ''except in accordance with section 1321''.

(3) 1992 ACT.—Section 1303 of the Housing and Community Development Act of 1992 (12 U.S.C. 4502), as amended by section 2 of this Act, is further amended—

(A) by striking paragraph (17) (relating to the definition of ''new program''); and

(B) by redesignating paragraphs (18) through (23) as paragraphs (17) through (22), respectively.

SEC. 2123. MONITORING AND ENFORCING COMPLIANCE WITH HOUSING GOALS.

Section 1336(a)(1) of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4566(a)(1)) is amended by striking ''established'' and all that follows through ''1334'' and inserting ''under this subpart''.

SEC. 2124. ASSUMPTION BY DIRECTOR OF OTHER HUD RESPONSIBILITIES.

(a) IN GENERAL.—Part 2 of subtitle A of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4541 et seq.) is amended—

(1) by striking ''Secretary'' each place that term appears and inserting ''Director'' in each of sections 1323, 1324, 1326, 1331, 1332, 1333, 1334, and 1336;

(2) in section 1332 (12 U.S.C. 4562), by striking subsection (d);

(3) in section 1333 (12 U.S.C. 4563), by striking subsection (d);

(4) in section 1334 (12 U.S.C. 4564), by striking subsection (d); and

(5) by striking sections 1337, 1338, and 1349 (12 U.S.C. 4567, 4562 note, 4589).

(b) RETENTION OF FAIR HOUSING RESPONSIBILITIES.—Section 1325 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4545) is amended in the matter preceding paragraph (1), by inserting ''of Housing and Urban Development'' after ''The Secretary''.

SEC. 2125. ADMINISTRATIVE AND JUDICIAL ENFORCEMENT PROCEEDINGS.

(a) DIRECTOR AUTHORITY.—Subpart C of part 2 of subtitle A of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4581 et seq.) is amended by striking ''Secretary'' each place that term appears and inserting ''Director'' in each of—

(1) section 1341 (12 U.S.C. 4581);
(2) section 1342 (12 U.S.C. 4582);
(3) section 1343 (12 U.S.C. 4583);
(4) section 1344 (12 U.S.C. 4584);
(5) section 1345 (12 U.S.C. 4585);
(6) section 1346 (12 U.S.C. 4586);
(7) section 1347 (12 U.S.C. 4587); and
(8) section 1348 (12 U.S.C. 4588).

(b) SUBPOENA ENFORCEMENT BY DIRECTOR.—Section 1348(c) of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4588(c)) is amended by inserting ''may bring an action or'' before ''may request''.

SEC. 2126. CONFORMING LOAN LIMITS.

(a) FANNIE MAE.—Section 302(b)(2) of the Federal National Mortgage Association Charter Act (12 U.S.C. 1717(b)(2)) is amended by striking ''The Corporation shall establish'' and all that follows through the end of the paragraph and inserting the following: ''Such limitations shall not exceed $417,000 for a mortgage secured by a single-family residence, $533,850 for a mortgage secured by a 2-family residence, $645,300 for a mortgage secured by a 3-family residence, or $801,950 for a mortgage secured by a 4-family residence, except that such maximum limitations shall be adjusted effective January 1 of each year beginning after the effective date under section 2163 of the Federal Housing Enterprise Regulatory Reform Act of 2008, subject to the limitations in this paragraph. Such limitation shall be calculated with respect to the total original principal obligation of the mortgage, and not merely with respect to the interest purchased by the enterprise. Each adjustment shall be made by adding to or subtracting from each such amount (as it may have been previously adjusted) a percentage thereof equal to the percentage increase or decrease, during the most recent 12-month or fourth quarter period ending before the time of determining such annual adjustment, in the housing price index maintained by the Director of the Federal Housing Enterprise Regulatory Agency (pursuant to section 1321 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4541)).''.

(b) FREDDIE MAC.—Section 305(a)(2) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1454(a)(2)) is amended by striking ''The Corporation shall establish'' and all that follows through the end of the paragraph and inserting the following: ''Such limitations shall not exceed $417,000 for a

mortgage secured by a single-family residence, $533,850 for a mortgage secured by a 2-family residence, $645,300 for a mortgage secured by a 3-family residence, or $801,950 for a mortgage secured by a 4-family residence, except that such maximum limitations shall be adjusted effective January 1 of each year beginning after the effective date under section 2163 of the Federal Housing Enterprise Regulatory Reform Act of 2008, subject to the limitations in this paragraph. Such limitation shall be calculated with respect to the total original principal obligation of the mortgage and not merely with respect to the interest purchased by the enterprise. Each adjustment shall be made by adding to or subtracting from each such amount (as it may have been previously adjusted) a percentage thereof equal to the percentage increase or decrease, during the most recent 12-month or fourth quarter period ending before the time of determining such annual adjustment, in the housing price index maintained by the Director of the Federal Housing Enterprise Regulatory Agency (pursuant to section 1321 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4541)).''.

(c) HOUSING PRICE INDEX.—The Federal Housing Enterprises Financial Safety and Soundness Act of 1992, as amended by this Act, is amended by inserting before section 1323 the following:

''SEC. 1322. HOUSING PRICE INDEX.

''(a) METHOD OF ASSESSMENT.—The Director shall establish, by regulation, and maintain a method of assessing the national average single-family housing price for use in adjusting the conforming loan limitations of the enterprises.

''(b) CONSIDERATIONS.—The Director shall take into consideration the monthly survey of all major lenders conducted by the Agency to determine the national average single-family house price, the Housing Price Index maintained by the Office of Federal Housing Enterprise Oversight of the Department of Housing and Urban Development before the effective date under section 2163 of the Federal Housing Enterprise Regulatory Reform Act of 2008, any appropriate housing price indexes of the Bureau of the Census of the Department of Commerce, and any other indexes or measure that the Director considers appropriate.''.

SEC. 2127. REPORTING OF MORTGAGE DATA; HOUSING GOALS.

(a) REPORTING OF MORTGAGE DATA.—Section 1325 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4546), as so redesignated by this Act, is amended—

(1) in subsection (a), by striking ''The Director'' and inserting ''Subject to subsection (d), the Director''; and

(2) by adding at the end the following:

''(d) MORTGAGE DATA.—The Director shall, by regulation or order, provide that certain information relating to single family mortgage data of the enterprises shall be disclosed to the public in order to make available to the public the same data from the enterprises that is required of insured depository institutions under the Home Mortgage Disclosure Act.''.

(b) DEFINITIONS.—Section 1334 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4564), as amended by this Act, is amended by adding at the end the following:

''(d) DEFINITIONS.—For purposes of this section, the term 'underserved area' means an urban census tract that has—

''(1) an average median family income of less than 80 percent of the area median family income; or

''(2) a minority population of at least 30 percent and a median family income of less than 100 percent of the area family median income.''.

SEC. 2128. DUTY TO SERVE UNDERSERVED MARKETS.

(a) ESTABLISHMENT AND EVALUATION OF PERFORMANCE.—Section 1335 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4565) is amended—

(1) in the section heading, by inserting ''**DUTY TO SERVE UNDERSERVED MARKETS AND**'' before ''**OTHER**'';

(2) by striking subsection (b);

(3) in subsection (a)—

(A) by inserting ''and to carry out the duty under subsection (a)'' before '', each enterprise shall'';

(B) in paragraph (3), by inserting ''and'' at the end;

(C) in paragraph (4), by striking ''; and'' and inserting a period; and

(D) by striking paragraph (5); and

(4) by redesignating subsection (a) as subsection (b);

(5) by inserting before subsection (b) (as so redesignated) the following:

''(a) DUTY TO SERVE UNDERSERVED MARKETS.—

''(1) DUTY.—In accordance with the purposes of the enterprises under section 301(3) of the Federal National Mortgage Association Charter Act (12 U.S.C. 1716) and section 301(b)(3) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1451 note) to undertake activities relating to mortgages on housing for very low-, low-, and moderate-income families, involving a reasonable economic return that may be less than the return earned on other activities, each enterprise shall have the duty to increase the liquidity of mortgage investments and improve the distribution of investment capital available for mortgage financing for underserved markets.

''(2) UNDERSERVED MARKETS.—To meet its duty under paragraph (1), each enterprise shall lead the industry in developing loan products and flexible underwriting guidelines to facilitate a secondary market—

''(A) for mortgages on manufactured homes for very low-, low-, and moderate-income families;

''(B) to preserve housing affordable to very low-, low-, and moderate-income families, including housing projects subsidized under—

''(i) the project-based and tenant-based rental assistance programs under section 8 of the United States Housing Act of 1937;

''(ii) the program under section 236 of the National Housing Act;

''(iii) the below market interest rate mortgage program under section 221(d)(4) of the National Housing Act;

''(iv) the supportive housing for the elderly program under section 202 of the Housing Act of 1959;

''(v) the supportive housing program for persons with disabilities under section 811 of the Cranston-Gonzalez National Affordable Housing Act; and

''(vi) the rural rental housing program under section 515 of the Housing Act of 1949;

''(C) for mortgages on housing for very low-, low-, and moderate-income families in rural areas, and for mortgages for housing for any other underserved market for very low-, low-, and moderate-income families that the Director identifies as lacking adequate credit through conventional lending sources, which underserved markets may be identified by borrower type, market segment, or geographic area; and

''(D) for mortgages originated through State or local affordable or subsidized housing programs.''; and

(6) by adding at the end the following new subsection:

''(c) EVALUATION AND REPORTING OF COMPLIANCE.—

''(1) METHOD OF EVALUATION.—Not later than 6 months after the effective date of title I of the Federal Housing Enterprise Regulatory Reform Act of 2008, the Director shall establish a method for evaluating whether, and the extent to which, the enterprises have complied with the duty under subsection (a) to serve underserved markets and for rating the extent of such compliance.

''(2) ANNUAL EVALUATIONS.—Using the method established under paragraph (1), the Director shall, for each year, evaluate such compliance and rate the performance of each enterprise as to the extent of compliance. The Director shall include such evaluation and rating for each enterprise for a year in the report for that year submitted pursuant to section 1319B(a).

''(3) SEPARATE EVALUATIONS.—In determining whether an enterprise has complied with the duty under subsection (a), the Director shall separately evaluate whether the enterprise has complied with such duty with respect to each of the underserved markets identified in subsection (a), taking into consideration—

''(A) the development of loan products and more flexible underwriting guidelines;

''(B) the extent of outreach to qualified loan sellers in each of such underserved markets; and

''(C) the volume of loans purchased in each of such underserved markets.''.

(b) ENFORCEMENT.—Section 1336(a) of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4566(a)) is amended—

(1) in paragraph (1), by inserting before the period ''and with the duty under section 1335A of each enterprise with respect to underserved markets''; and

(2) by adding at the end the following:

''(4) ENFORCEMENT OF DUTY TO PROVIDE MORTGAGE CREDIT TO UNDERSERVED MARKETS.—Compliance with the duty under section 1335(a) of each enterprise to serve underserved markets (as determined in accordance with section 1335(c)) shall be enforceable under this section to the same extent and under the same provisions that the housing goals established under sections 1332, 1333, and 1334 are enforceable. Such duty shall not be enforceable under any provision of this title (including subpart C), other than this section, or under any provision of the Federal National Mortgage Association Charter Act or the Federal Home Loan Mortgage Corporation Act, as applicable.''.

SEC. 2129. HOME PURCHASE GOAL.

The Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4501 et seq.) is amended—

(1) by inserting after section 1334 the following:

''SEC. 1334A. HOME PURCHASE GOAL.

''(a) ESTABLISHMENT.—

''(1) IN GENERAL.—The Director shall establish an annual home purchase goal for the purchase by each enterprise of mortgage financing of owner-occupied single family dwelling units.

''(2) COMPONENTS.—The Director may, by regulation, establish components for the goal established under paragraph (1) to include any or all of the following:

''(A) First-time home buyers.

''(B) Low- and moderate-income home buyers.

''(C) Home buyers in central cities, rural areas, and other underserved areas.

''(D) Home buyers who obtain financing through State or local affordable or subsidized housing programs.

''(3) OTHER AUTHORITY.—The Director may, by regulation, establish the goal under paragraph (1) with components as percentages of

enterprise business, or by such other means as necessary to increase the secondary market financing of mortgages by the enterprises for home purchases, consistent with the missions of the enterprises.

''(4) ENFORCEABILITY.—The components of the goal established by the Director under paragraph (1) shall be enforceable as goals under subpart C.

''(b) FACTORS TO BE CONSIDERED.—In establishing the home purchase goal for an enterprise under this section, the Director shall consider—

''(1) national housing needs;

''(2) economic, housing, and demographic conditions;

''(3) the performance and effort of the enterprises toward achieving the home purchase goal in previous years;

''(4) the size of the conventional mortgage market serving home purchasers, relative to the size of the overall conventional mortgage market;

''(5) the ability of the enterprises to lead the industry in making mortgage credit available for home purchasers; and

''(6) the need to maintain the sound financial condition of the enterprises.

''(c) TRANSITION.—In order to permit a transition to the establishment of the goal under this section, such goal shall not be effective or enforceable during the 1-year period beginning on the date of its establishment under subsection (a).

''(d) IMPLEMENTATION DURING TRANSITION.—The Director shall establish, by rule, any requirements necessary to implement the transition provisions under subsection (c), after providing the enterprises with an opportunity to review and comment not less than 30 days before the issuance of such notice.

''SEC. 1334B. HOUSING GOALS, ADDITIONS, MODIFICATIONS, AND RESCISSIONS.

''(a) IN GENERAL.—

''(1) AUTHORITY TO ADDRESS GOALS.—The Director may, by regulation, establish additional annual housing goals, or modify or rescind existing housing goals, to address national housing needs consistent with the missions, of the enterprises and the authorizing statutes, for the purchase of mortgages, if the Director determines, by regulation, that the housing need is greatest.

''(2) METHODOLOGY.—The Director may issue a regulation which establishes or modifies any goal under this subsection—

''(A) as a percentage of the mortgage purchases of each enterprise;

''(B) as a dollar amount of each enterprise's mortgage purchases; or

''(C) by such other means as necessary to increase the enterprises' secondary market financing of mortgages addressed by the goal.

''(b) FACTORS TO BE CONSIDERED.—In establishing any additional goals under this section, the Director shall consider—

''(1) national housing needs;

''(2) economic, housing, and demographic conditions;

''(3) the performance and effort of the enterprises toward achieving the need addressed by any such additional goal in previous years;

''(4) the size of the conventional mortgage market serving the need addressed by the goal, relative to the size of the overall conventional mortgage market;

''(5) the ability of the enterprises to lead the industry in making mortgage credit available to meet the need addressed by the goal; and

''(6) the need to maintain the sound financial condition of the enterprises.

''(c) TRANSITION.—In order to permit a transition to the establishment of any goal under this section, such goal shall not be effective or enforceable during the 1-year period beginning on the date of its establishment under subsection (a).'';

(2) in section 1335 (12 U.S.C. 4565(a)), by striking ''meet the low-'' and all that follows through ''1334'' and inserting ''meet the goals under this subpart'';

(3) in section 1336 (12 U.S.C. 4566), by striking subsections (b) and (c) and inserting the following:

''(b) NOTICE AND PRELIMINARY DETERMINATION OF FAILURE TO MEET GOALS.—

''(1) NOTICE.—If the Director preliminarily determines that an enterprise has failed, or that there is a substantial probability that an enterprise will fail, to meet any housing goal under this subpart, the Director shall provide written notice to the enterprise of such a preliminary determination, the reasons for such determination, and the information on which the Director based the determination.

''(2) RESPONSE PERIOD.—

''(A) IN GENERAL.—During the 30-day period beginning on the date on which an enterprise is provided notice under paragraph (1), the enterprise may submit to the Director any written information that the enterprise considers appropriate for consideration by the Director in finally determining whether such failure has occurred or whether the achievement of such goal was or is feasible.

''(B) EXTENDED PERIOD.—The Director may extend the period under subparagraph (A) for good cause for not more than 30 additional days.

''(C) SHORTENED PERIOD.—The Director may shorten the period under subparagraph (A) for good cause.

''(D) FAILURE TO RESPOND.—The failure of an enterprise to provide information during the 30-day period under this paragraph (as extended or shortened) shall waive any right of the enterprise to comment on the proposed determination or action of the Director.

''(3) CONSIDERATION OF INFORMATION AND FINAL DETERMINATION.—

''(A) IN GENERAL.—After the expiration of the response period under paragraph (2), or upon receipt of information provided during such period by the enterprise, whichever occurs earlier, the Director shall issue a final determination on—

''(i) whether the enterprise has failed, or there is a substantial probability that the enterprise will fail, to meet the housing goal; and

''(ii) whether (taking into consideration market and economic conditions and the financial condition of the enterprise) the achievement of the housing goal was or is feasible.

''(B) CONSIDERATIONS.—In making a final determination under subparagraph (A), the Director shall take into consideration any relevant information submitted by the enterprise during the response period.

''(C) NOTICE.—The Director shall provide written notice, including a response to any information submitted during the response period to the enterprise, the Committee on Banking, Housing, and Urban Affairs of the Senate, and the Committee on Financial Services of the House of Representatives, of—

''(i) each final determination under this paragraph that an enterprise has failed, or that there is a substantial probability that the enterprise will fail, to meet a housing goal;

''(ii) each final determination that the achievement of a housing goal was or is feasible; and

''(iii) the reasons for each such final determination.

''(c) CEASE AND DESIST, CIVIL MONEY PENALTIES, AND REMEDIES INCLUDING HOUSING PLANS.—

''(1) REQUIREMENT.—If the Director finds, pursuant to subsection (b), that there is a substantial probability that an enterprise will fail, or has actually failed, to meet any housing goal under this subpart, and that the achievement of the housing goal was or is feasible, the Director may require that the enterprise submit a housing plan under this subsection. If the Director makes such a finding and the enterprise refuses to submit such a plan, submits an unacceptable plan, fails to comply with the plan, or the Director finds that the enterprise has failed to meet any housing goal under this subpart, in addition to requiring an enterprise to submit a housing plan, the Director may issue a cease and desist order in accordance with section 1341, impose civil money penalties in accordance with section 1345, or order other remedies as set forth in paragraph (7).

''(2) HOUSING PLAN.—If the Director requires a housing plan under this subsection, such a plan shall be—

''(A) a feasible plan describing the specific actions the enterprise will take—

''(i) to achieve the goal for the next calendar year; and

''(ii) if the Director determines that there is a substantial probability that the enterprise will fail to meet a goal in the current year, to make such improvements and changes in its operations as are reasonable in the remainder of such year; and

''(B) sufficiently specific to enable the Director to monitor compliance periodically.

''(3) DEADLINE FOR SUBMISSION.—The Director shall, by regulation, establish a deadline for an enterprise to comply with any remedial action or submit a housing plan to the Director, which may not be more than 45 days after the enterprise is provided notice. The regulations shall provide that the Director may extend the deadline to the extent that the Director determines necessary. Any extension of the deadline shall be in writing and for a time certain.

''(4) APPROVAL.—The Director shall review each submission by an enterprise, including a housing plan submitted under this subsection, and, not later than 30 days after submission, approve or disapprove the plan or other action. The Director may extend the period for approval or disapproval for a single additional 30-day period if the Director determines it necessary. The Director shall approve any plan that the Director determines is likely to succeed, and conforms with the Federal National Mortgage Association Charter Act or the Federal Home Loan Mortgage Corporation Act (as applicable), this title, and any other applicable provision of law.

''(5) NOTICE OF APPROVAL AND DISAPPROVAL.—The Director shall provide written notice to any enterprise submitting a housing plan of the approval or disapproval of the plan (which shall include the reasons for any disapproval of the plan) and of any extension of the period for approval or disapproval.

''(6) RESUBMISSION.—If the initial housing plan submitted by an enterprise under this section is disapproved, the enterprise shall submit an amended plan acceptable to the Director not later than 30 days after such disapproval, or such longer period that the Director determines is in the public interest.

''(7) ADDITIONAL REMEDIES FOR FAILURE TO MEET GOALS.—In addition to ordering a housing plan under this section, issuing a cease and desist order under section 1341, and ordering civil money penalties under section 1345, the Director may seek other actions when an enterprise fails to meet a goal, including requesting that the Director exercise

appropriate enforcement authority available to the Director under this title to prohibit the enterprise from entering into new activities, to freeze any pending approval of new activities, and to order the enterprise to suspend activities pending its achievement of the goal.'';

(4) by striking section 1338 (12 U.S.C. 4568);

(5) by striking from the heading of subpart C ''**of Housing Goals**'';

(6) by striking section 1341 (12 U.S.C. 4581) and inserting the following:

''SEC. 1341. CEASE-AND-DESIST PROCEEDINGS.

''(a) GROUNDS FOR ISSUANCE.—The Director may issue and serve a notice of charges under this section upon an enterprise if the Director determines that—

''(1) the enterprise has failed to meet any housing goal established under subpart B, following a written notice and determination of such failure in accordance with section 1336;

''(2) the enterprise has failed to submit a report under section 1327, following a notice of such failure, an opportunity for comment by the enterprise, and a final determination by the Director;

''(3) the enterprise has failed to submit the information required under subsection (m) or (n) of section 309 of the Federal National Mortgage Association Charter Act, subsection (e) or (f) of section 307 of the Federal Home Loan Mortgage Corporation Act, or section 1337 of this title;

''(4) the enterprise has violated any provision of part 2 of this title or any order, rule, or regulation under part 2;

''(5) the enterprise has failed to submit a housing plan or perform its responsibilities under a remedial order that substantially complies with section 1336(c) within the applicable period; or

''(6) the enterprise has failed to comply with a housing plan under section 1336(c).

''(b) PROCEDURE.—

''(1) NOTICE OF CHARGES.—Each notice of charges issued under this section shall contain a statement of the facts constituting the alleged conduct and shall fix a time and place at which a hearing will be held to determine on the record whether an order to cease and desist from such conduct should issue.

''(2) ISSUANCE OF ORDER.—If the Director finds on the record made at a hearing described in paragraph (1) that any conduct specified in the notice of charges has been established (or the enterprise consents pursuant to section 1342(a)(4)), the Director may issue and serve upon the enterprise an order requiring the enterprise to—

''(A) comply with the goals;

''(B) submit a report under section 1327;

''(C) comply with any provision of part 2 of this title or any order, rule, or regulation under part 2;

''(D) submit a housing plan in compliance with section 1336(c);

''(E) comply with the housing plan in compliance with section 1336(c); or

''(F) provide the information required under subsection (m) or (n) of section 309 of the Federal National Mortgage Association Charter Act, or subsection (e) or (f) of section 307 of the Federal Home Loan Mortgage Corporation Act.

''(c) EFFECTIVE DATE.—An order under this section shall become effective upon the expiration of the 30-day period beginning on the date of service of the order upon the enterprise (except in the case of an order issued upon consent, which shall become effective at the time specified therein), and shall remain effective and enforceable as provided in the order, except to the extent that the order is stayed, modified, terminated, or set aside by action of the Director of or otherwise, as provided in this subpart.''; and

(7) by striking section 1345 and inserting the following:

''SEC. 1345. CIVIL MONEY PENALTIES.

''(a) AUTHORITY.—The Director may impose a civil money penalty, in accordance with the provisions of this section, on any enterprise that has failed to—

''(1) meet any housing goal established under subpart B, following a written notice and determination of such failure in accordance with section 1336(b);

''(2) submit a report under section 1327, following a notice of such failure, an opportunity for comment by the enterprise, and a final determination by the Director;

''(3) submit the information required under subsection (m) or (n) of section 309 of the Federal National Mortgage Association Charter Act or subsection (e) or (f) of section 307 of the Federal Home Loan Mortgage Corporation Act;

''(4) comply with any provision of part 2 of this title or any order, rule, or regulation under part 2;

''(5) submit a housing plan or perform its responsibilities under a remedial order issued pursuant to section 1336(c) within the required period; or

''(6) comply with a housing plan for the enterprise under section 1336(c).

''(b) AMOUNT OF PENALTY.—The amount of a penalty under this section, as determined by the Director, may not exceed—

''(1) for any failure described in paragraph (1), (5), or (6) of subsection (a), $100,000 for each day that the failure occurs; and

''(2) for any failure described in paragraph (2), (3), or (4) of subsection (a), $50,000 for each day that the failure occurs.

''(c) PROCEDURES.—

''(1) ESTABLISHMENT.—The Director shall establish standards and procedures governing the imposition of civil money penalties under this section. Such standards and procedures—

''(A) shall provide for the Director to notify the enterprise in writing of the determination of the Director to impose the penalty, which shall be made on the record;

''(B) shall provide for the imposition of a penalty only after the enterprise has been given an opportunity for a hearing on the record pursuant to section 1342; and

''(C) may provide for review by the Director of any determination or order, or interlocutory ruling, arising from a hearing.

''(2) FACTORS IN DETERMINING AMOUNT OF PENALTY.—In determining the amount of a penalty under this section, the Director shall give consideration to factors including—

''(A) the gravity of the offense;

''(B) any history of prior offenses;

''(C) ability to pay the penalty;

''(D) injury to the public;

''(E) benefits received;

''(F) deterrence of future violations;

''(G) the length of time that the enterprise should reasonably take to achieve the goal; and

''(H) such other factors as the Director may determine, by regulation, to be appropriate.

''(d) ACTION TO COLLECT PENALTY.—If an enterprise fails to comply with an order by the Director imposing a civil money penalty under this section, after the order is no longer subject to review, as provided in sections 1342 and 1343, the Director may request the Attorney General of the United States to bring an action in the United States District Court for the District of Columbia to obtain a monetary judgment against the enterprise, and such other relief as may be available. The monetary judgment may, in the court's discretion, include the attorneys' fees and other expenses incurred by the United States in connection with the action. In an action under this subsection, the validity and appropriateness of the order imposing the penalty shall not be subject to review.

''(e) SETTLEMENT BY DIRECTOR.—The Director may compromise, modify, or remit any civil money penalty which may be, or has been, imposed under this section.

''(f) DEPOSIT OF PENALTIES.—The Director shall deposit any civil money penalties collected under this section into the General Fund of the Treasury.''.

Subtitle C—Prompt Corrective Action

SEC. 2141. CRITICAL CAPITAL LEVELS.

Section 1363 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4613) is amended—

(1) by redesignating paragraphs (1) through (3) as clauses (i) through (iii), respectively, and indenting appropriately;

(2) by striking ''this subtitle, the critical capital level for each enterprise shall be the sum of—'' and inserting the following: ''this subtitle, the critical capital level—

''(1) for each enterprise shall be—

''(A) the sum of—''; and

(3) in paragraph (1)(A)(iii), as so designated by this section, by striking the period at the end and inserting the following: ''; or

''(B) such other level as the Director shall establish, by regulation; and

''(2) for each Federal Home Loan Bank, shall be the level that the Director shall establish, by regulation.''.

SEC. 2142. CAPITAL CLASSIFICATIONS.

Section 1364 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4614) is amended—

(1) in subsection (a)—

(A) in paragraph (3)(A)—

(i) by striking clause (i); and

(ii) by redesignating clauses (ii) and (iii) as clauses (i) and (ii), respectively; and

(B) in paragraph (4)(A), by striking ''enterprise—'' and all that follows through ''(ii) does'' and inserting ''enterprise does'';

(2) by striking subsection (b) and inserting the following:

''(b) DISCRETIONARY CLASSIFICATION.—

''(1) GROUNDS FOR RECLASSIFICATION.—The Director may reclassify a regulated entity under paragraph (2) if—

''(A) at any time, the Director determines in writing that a regulated entity is engaging in conduct that could result in a rapid depletion of core capital, or that the value of the property subject to mortgages held or securitized by an enterprise, or the value of collateral pledged as security, has decreased significantly;

''(B) after notice and an opportunity for hearing, the Director determines that a regulated entity is in an unsafe or unsound condition; or

''(C) pursuant to section 1371(b), the Director determines that a regulated entity is engaging in an unsafe or unsound practice.

''(2) RECLASSIFICATION.—In addition to any other action authorized under this title, including the reclassification of a regulated entity for any reason not specified in this subsection, if the Director takes any action described in paragraph (1), the Director may reclassify a regulated entity—

''(A) as 'undercapitalized', if the regulated entity is otherwise classified as adequately capitalized;

''(B) as 'significantly undercapitalized', if the regulated entity is otherwise classified as undercapitalized; and

''(C) as 'critically undercapitalized', if the regulated entity is otherwise classified as significantly undercapitalized.''; and

(3) by striking subsection (d) and inserting the following:

''(d) RESTRICTION ON CAPITAL DISTRIBUTIONS.—

''(1) IN GENERAL.—A regulated entity shall make no capital distribution if, after making

the distribution, the regulated entity would be undercapitalized.

''(2) EXCEPTION.—Notwithstanding paragraph (1), the Director may permit a regulated entity to repurchase, redeem, retire, or otherwise acquire shares or ownership interests if the repurchase, redemption, retirement, or other acquisition—

''(A) is made in connection with the issuance of additional shares or obligations of the regulated entity in at least an equivalent amount; and

''(B) will reduce the financial obligations of the regulated entity or otherwise improve the financial condition of the regulated entity.''.

SEC. 2143. SUPERVISORY ACTIONS APPLICABLE TO UNDERCAPITALIZED REGULATED ENTITIES.

Section 1365 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4615) is amended—

(1) by striking ''the enterprise'' each place that term appears and inserting ''the regulated entity'';

(2) by striking ''An enterprise'' each place that term appears and inserting ''A regulated entity'';

(3) by striking ''an enterprise'' each place that term appears and inserting ''a regulated entity'';

(4) in subsection (a)—

(A) by redesignating paragraphs (1) and (2) as paragraphs (2) and (3), respectively;

(B) by inserting before paragraph (2), as redesignated, the following:

''(1) REQUIRED MONITORING.—The Director shall—

''(A) closely monitor the condition of any undercapitalized regulated entity;

''(B) closely monitor compliance with the capital restoration plan, restrictions, and requirements imposed on an undercapitalized regulated entity under this section; and

''(C) periodically review the plan, restrictions, and requirements applicable to an undercapitalized regulated entity to determine whether the plan, restrictions, and requirements are achieving the purpose of this section.''; and

(C) by adding at the end the following:

''(4) RESTRICTION OF ASSET GROWTH.—An undercapitalized regulated entity shall not permit its average total assets during any calendar quarter to exceed its average total assets during the preceding calendar quarter, unless—

''(A) the Director has accepted the capital restoration plan of the regulated entity;

''(B) any increase in total assets is consistent with the capital restoration plan; and

''(C) the ratio of tangible equity to assets of the regulated entity increases during the calendar quarter at a rate sufficient to enable the regulated entity to become adequately capitalized within a reasonable time.

''(5) PRIOR APPROVAL OF ACQUISITIONS AND NEW ACTIVITIES.—An undercapitalized regulated entity shall not, directly or indirectly, acquire any interest in any entity or engage in any new activity, unless—

''(A) the Director has accepted the capital restoration plan of the regulated entity, the regulated entity is implementing the plan, and the Director determines that the proposed action is consistent with and will further the achievement of the plan; or

''(B) the Director determines that the proposed action will further the purpose of this subtitle.'';

(5) in subsection (b)—

(A) in the subsection heading, by striking ''DISCRETIONARY'';

(B) in the matter preceding paragraph (1), by striking ''may'' and inserting ''shall''; and

(C) in paragraph (2)—

(i) by striking ''make, in good faith, reasonable efforts necessary to''; and

(ii) by striking the period at the end and inserting ''in any material respect.''; and

(6) by striking subsection (c) and inserting the following:

''(c) OTHER DISCRETIONARY SAFEGUARDS.—The Director may take, with respect to an undercapitalized regulated entity, any of the actions authorized to be taken under section 1366 with respect to a significantly undercapitalized regulated entity, if the Director determines that such actions are necessary to carry out the purpose of this subtitle.''.

SEC. 2144. SUPERVISORY ACTIONS APPLICABLE TO SIGNIFICANTLY UNDERCAPITALIZED REGULATED ENTITIES.

Section 1366 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4616) is amended—

(1) in subsection (a)(2), by striking ''undercapitalized enterprise'' and inserting ''undercapitalized'';

(2) by striking ''the enterprise'' each place that term appears and inserting ''the regulated entity'';

(3) by striking ''An enterprise'' each place that term appears and inserting ''A regulated entity'';

(4) by striking ''an enterprise'' each place that term appears and inserting ''a regulated entity'';

(5) in subsection (b)—

(A) in the subsection heading, by striking ''DISCRETIONARY SUPERVISORY'' and inserting ''SPECIFIC'';

(B) in the matter preceding paragraph (1), by striking ''may, at any time, take any'' and inserting ''shall carry out this section by taking, at any time, 1 or more'';

(C) by striking paragraph (6);

(D) by redesignating paragraph (5) as paragraph (6);

(E) by inserting after paragraph (4) the following:

''(5) IMPROVEMENT OF MANAGEMENT.—Take 1 or more of the following actions:

''(A) NEW ELECTION OF BOARD.—Order a new election for the board of directors of the regulated entity.

''(B) DISMISSAL OF DIRECTORS OR EXECUTIVE OFFICERS.—Require the regulated entity to dismiss from office any director or executive officer who had held office for more than 180 days immediately before the date on which the regulated entity became undercapitalized. Dismissal under this subparagraph shall not be construed to be a removal pursuant to the enforcement powers of the Director under section 1377.

''(C) EMPLOY QUALIFIED EXECUTIVE OFFICERS.—Require the regulated entity to employ qualified executive officers (who, if the Director so specifies, shall be subject to approval by the Director).''; and

(F) by adding at the end the following:

''(7) OTHER ACTION.—Require the regulated entity to take any other action that the Director determines will better carry out the purpose of this section than any of the other actions specified in this subsection.''; and

(6) by striking subsection (c) and inserting the following:

''(c) RESTRICTION ON COMPENSATION OF EXECUTIVE OFFICERS.—A regulated entity that is classified as significantly undercapitalized in accordance with section 1364 may not, without prior written approval by the Director—

''(1) pay any bonus to any executive officer; or

''(2) provide compensation to any executive officer at a rate exceeding the average rate of compensation of that officer (excluding bonuses, stock options, and profit sharing) during the 12 calendar months preceding the calendar month in which the regulated entity became significantly undercapitalized.''.

SEC. 2145. AUTHORITY OVER CRITICALLY UNDERCAPITALIZED REGULATED ENTITIES.

(a) IN GENERAL.—Section 1367 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4617) is amended to read as follows:

''SEC. 1367. AUTHORITY OVER CRITICALLY UNDERCAPITALIZED REGULATED ENTITIES.

''(a) APPOINTMENT OF THE AGENCY AS CONSERVATOR OR RECEIVER.—

''(1) IN GENERAL.—Notwithstanding any other provision of Federal or State law, the Director may appoint the Agency as conservator or receiver for a regulated entity in the manner provided under paragraph (2) or (4). All references to the conservator or receiver under this section are references to the Agency acting as conservator or receiver.

''(2) DISCRETIONARY APPOINTMENT.—The Agency may, at the discretion of the Director, be appointed conservator or receiver for the purpose of reorganizing, rehabilitating, or winding up the affairs of a regulated entity.

''(3) GROUNDS FOR DISCRETIONARY APPOINTMENT OF CONSERVATOR OR RECEIVER.—The grounds for appointing conservator or receiver for any regulated entity under paragraph (2) are as follows:

''(A) SUBSTANTIAL DISSIPATION.—Substantial dissipation of assets or earnings due to—

''(i) any violation of any provision of Federal or State law; or

''(ii) any unsafe or unsound practice.

''(B) UNSAFE OR UNSOUND CONDITION.—An unsafe or unsound condition to transact business.

''(C) CEASE-AND-DESIST ORDERS.—Any willful violation of a cease-and-desist order that has become final.

''(D) CONCEALMENT.—Any concealment of the books, papers, records, or assets of the regulated entity, or any refusal to submit the books, papers, records, or affairs of the regulated entity, for inspection to any examiner or to any lawful agent of the Director.

''(E) INABILITY TO MEET OBLIGATIONS.—The regulated entity is likely to be unable to pay its obligations or meet the demands of its creditors in the normal course of business.

''(F) LOSSES.—The regulated entity has incurred or is likely to incur losses that will deplete all or substantially all of its capital, and there is no reasonable prospect for the regulated entity to become adequately capitalized (as defined in section 1364(a)(1)).

''(G) VIOLATIONS OF LAW.—Any violation of any law or regulation, or any unsafe or unsound practice or condition that is likely to—

''(i) cause insolvency or substantial dissipation of assets or earnings; or

''(ii) weaken the condition of the regulated entity.

''(H) CONSENT.—The regulated entity, by resolution of its board of directors or its shareholders or members, consents to the appointment.

''(I) UNDERCAPITALIZATION.—The regulated entity is undercapitalized or significantly undercapitalized (as defined in section 1364(a)(3)), and—

''(i) has no reasonable prospect of becoming adequately capitalized;

''(ii) fails to become adequately capitalized, as required by—

''(I) section 1365(a)(1) with respect to a regulated entity; or

''(II) section 1366(a)(1) with respect to a significantly undercapitalized regulated entity;

''(iii) fails to submit a capital restoration plan acceptable to the Agency within the time prescribed under section 1369C; or

''(iv) materially fails to implement a capital restoration plan submitted and accepted under section 1369C.

''(J) CRITICAL UNDERCAPITALIZATION.—The regulated entity is critically undercapitalized, as defined in section 1364(a)(4).

''(K) MONEY LAUNDERING.—The Attorney General notifies the Director in writing that the regulated entity has been found guilty of a criminal offense under section 1956 or 1957 of title 18, United States Code, or section 5322 or 5324 of title 31, United States Code.

''(4) MANDATORY RECEIVERSHIP.—

''(A) IN GENERAL.—The Director shall appoint the Agency as receiver for a regulated entity if the Director determines, in writing, that—

''(i) the assets of the regulated entity are, and during the preceding 30 calendar days have been, less than the obligations of the regulated entity to its creditors and others; or

''(ii) the regulated entity is not, and during the preceding 30 calendar days has not been, generally paying the debts of the regulated entity (other than debts that are the subject of a bona fide dispute) as such debts become due.

''(B) PERIODIC DETERMINATION REQUIRED FOR CRITICALLY UNDERCAPITALIZED REGULATED ENTITY.—If a regulated entity is critically undercapitalized, the Director shall make a determination, in writing, as to whether the regulated entity meets the criteria specified in clause (i) or (ii) of subparagraph (A)—

''(i) not later than 30 calendar days after the regulated entity initially becomes critically undercapitalized; and

''(ii) at least once during each succeeding 30-calendar day period.

''(C) DETERMINATION NOT REQUIRED IF RECEIVERSHIP ALREADY IN PLACE.—Subparagraph (B) does not apply with respect to a regulated entity in any period during which the Agency serves as receiver for the regulated entity.

''(D) RECEIVERSHIP TERMINATES CONSERVATORSHIP.—The appointment of the Agency as receiver of a regulated entity under this section shall immediately terminate any conservatorship established for the regulated entity under this title.

''(5) JUDICIAL REVIEW.—

''(A) IN GENERAL.—If the Agency is appointed conservator or receiver under this section, the regulated entity may, within 30 days of such appointment, bring an action in the United States district court for the judicial district in which the home office of such regulated entity is located, or in the United States District Court for the District of Columbia, for an order requiring the Agency to remove itself as conservator or receiver.

''(B) REVIEW.—Upon the filing of an action under subparagraph (A), the court shall, upon the merits, dismiss such action or direct the Agency to remove itself as such conservator or receiver.

''(6) DIRECTORS NOT LIABLE FOR ACQUIESCING IN APPOINTMENT OF CONSERVATOR OR RECEIVER.—The members of the board of directors of a regulated entity shall not be liable to the shareholders or creditors of the regulated entity for acquiescing in or consenting in good faith to the appointment of the Agency as conservator or receiver for that regulated entity.

''(7) AGENCY NOT SUBJECT TO ANY OTHER FEDERAL AGENCY.—When acting as conservator or receiver, the Agency shall not be subject to the direction or supervision of any other agency of the United States or any State in the exercise of the rights, powers, and privileges of the Agency.

''(b) POWERS AND DUTIES OF THE AGENCY AS CONSERVATOR OR RECEIVER.—

''(1) RULEMAKING AUTHORITY OF THE AGENCY.—The Agency may prescribe such regulations as the Agency determines to be appropriate regarding the conduct of conservatorships or receiverships.

''(2) GENERAL POWERS.—

''(A) SUCCESSOR TO REGULATED ENTITY.—The Agency shall, as conservator or receiver, and by operation of law, immediately succeed to—

''(i) all rights, titles, powers, and privileges of the regulated entity, and of any stockholder, officer, or director of such regulated entity with respect to the regulated entity and the assets of the regulated entity; and

''(ii) title to the books, records, and assets of any other legal custodian of such regulated entity.

''(B) OPERATE THE REGULATED ENTITY.—The Agency may, as conservator or receiver—

''(i) take over the assets of and operate the regulated entity with all the powers of the shareholders, the directors, and the officers of the regulated entity and conduct all business of the regulated entity;

''(ii) collect all obligations and money due the regulated entity;

''(iii) perform all functions of the regulated entity in the name of the regulated entity which are consistent with the appointment as conservator or receiver;

''(iv) preserve and conserve the assets and property of the regulated entity; and

''(v) provide by contract for assistance in fulfilling any function, activity, action, or duty of the Agency as conservator or receiver.

''(C) FUNCTIONS OF OFFICERS, DIRECTORS, AND SHAREHOLDERS OF A REGULATED ENTITY.—The Agency may, by regulation or order, provide for the exercise of any function by any stockholder, director, or officer of any regulated entity for which the Agency has been named conservator or receiver.

''(D) POWERS AS CONSERVATOR.—The Agency may, as conservator, take such action as may be—

''(i) necessary to put the regulated entity in a sound and solvent condition; and

''(ii) appropriate to carry on the business of the regulated entity and preserve and conserve the assets and property of the regulated entity.

''(E) ADDITIONAL POWERS AS RECEIVER.—In any case in which the Agency is acting as receiver, the Agency shall place the regulated entity in liquidation and proceed to realize upon the assets of the regulated entity in such manner as the Agency deems appropriate, including through the sale of assets, the transfer of assets to a limited-life regulated entity established under subsection (i), or the exercise of any other rights or privileges granted to the Agency under this paragraph.

''(F) ORGANIZATION OF NEW ENTERPRISE.—The Agency shall, as receiver for an enterprise, organize a successor enterprise that will operate pursuant to subsection (i).

''(G) TRANSFER OR SALE OF ASSETS AND LIABILITIES.—The Agency may, as conservator or receiver, transfer or sell any asset or liability of the regulated entity in default, and may do so without any approval, assignment, or consent with respect to such transfer or sale.

''(H) PAYMENT OF VALID OBLIGATIONS.—The Agency, as conservator or receiver, shall, to the extent of proceeds realized from the performance of contracts or sale of the assets of a regulated entity, pay all valid obligations of the regulated entity that are due and payable at the time of the appointment of the Agency as conservator or receiver, in accordance with the prescriptions and limitations of this section.

''(I) SUBPOENA AUTHORITY.—

''(i) IN GENERAL.—

''(I) AGENCY AUTHORITY.—The Agency may, as conservator or receiver, and for purposes of carrying out any power, authority, or duty with respect to a regulated entity (including determining any claim against the regulated entity and determining and realizing upon any asset of any person in the course of collecting money due the regulated entity), exercise any power established under section 1348.

''(II) APPLICABILITY OF LAW.—The provisions of section 1348 shall apply with respect to the exercise of any power under this subparagraph, in the same manner as such provisions apply under that section.

''(ii) SUBPOENA.—A subpoena or subpoena duces tecum may be issued under clause (i) only by, or with the written approval of, the Director, or the designee of the Director.

''(iii) RULE OF CONSTRUCTION.—This subsection shall not be construed to limit any rights that the Agency, in any capacity, might otherwise have under section 1317 or 1379B.

''(J) INCIDENTAL POWERS.—The Agency may, as conservator or receiver—

''(i) exercise all powers and authorities specifically granted to conservators or receivers, respectively, under this section, and such incidental powers as shall be necessary to carry out such powers; and

''(ii) take any action authorized by this section, which the Agency determines is in the best interests of the regulated entity or the Agency.

''(K) OTHER PROVISIONS.—

''(i) SHAREHOLDERS AND CREDITORS OF FAILED REGULATED ENTITY.—Notwithstanding any other provision of law, the appointment of the Agency as receiver for a regulated entity pursuant to paragraph (2) or (4) of subsection (a) and its succession, by operation of law, to the rights, titles, powers, and privileges described in subsection (b)(2)(A) shall terminate all rights and claims that the stockholders and creditors of the regulated entity may have against the assets or charter of the regulated entity or the Agency arising as a result of their status as stockholders or creditors, except for their right to payment, resolution, or other satisfaction of their claims, as permitted under subsections (b)(9), (c), and (e).

''(ii) ASSETS OF REGULATED ENTITY.—Notwithstanding any other provision of law, for purposes of this section, the charter of a regulated entity shall not be considered an asset of the regulated entity.

''(3) AUTHORITY OF RECEIVER TO DETERMINE CLAIMS.—

''(A) IN GENERAL.—The Agency may, as receiver, determine claims in accordance with the requirements of this subsection and any regulations prescribed under paragraph (4).

''(B) NOTICE REQUIREMENTS.—The receiver, in any case involving the liquidation or winding up of the affairs of a closed regulated entity, shall—

''(i) promptly publish a notice to the creditors of the regulated entity to present their claims, together with proof, to the receiver by a date specified in the notice which shall be not less than 90 days after the date of publication of such notice; and

''(ii) republish such notice approximately 1 month and 2 months, respectively, after the date of publication under clause (i).

''(C) MAILING REQUIRED.—The receiver shall mail a notice similar to the notice published under subparagraph (B)(i) at the time of such publication to any creditor shown on the books of the regulated entity—

''(i) at the last address of the creditor appearing in such books; or

''(ii) upon discovery of the name and address of a claimant not appearing on the books of the regulated entity, within 30 days after the discovery of such name and address.

''(4) RULEMAKING AUTHORITY RELATING TO DETERMINATION OF CLAIMS.—Subject to subsection (c), the Director may prescribe regulations regarding the allowance or disallowance of claims by the receiver and providing for administrative determination of claims and review of such determination.

''(5) PROCEDURES FOR DETERMINATION OF CLAIMS.—

''(A) DETERMINATION PERIOD.—

''(i) IN GENERAL.—Before the end of the 180-day period beginning on the date on which any claim against a regulated entity is filed with the Agency as receiver, the Agency shall determine whether to allow or disallow the claim and shall notify the claimant of any determination with respect to such claim.

''(ii) EXTENSION OF TIME.—The period described in clause (i) may be extended by a written agreement between the claimant and the Agency.

''(iii) MAILING OF NOTICE SUFFICIENT.—The requirements of clause (i) shall be deemed to be satisfied if the notice of any determination with respect to any claim is mailed to the last address of the claimant which appears—

''(I) on the books of the regulated entity;

''(II) in the claim filed by the claimant; or

''(III) in documents submitted in proof of the claim.

''(iv) CONTENTS OF NOTICE OF DISALLOWANCE.—If any claim filed under clause (i) is disallowed, the notice to the claimant shall contain—

''(I) a statement of each reason for the disallowance; and

''(II) the procedures available for obtaining agency review of the determination to disallow the claim or judicial determination of the claim.

''(B) ALLOWANCE OF PROVEN CLAIM.—The receiver shall allow any claim received on or before the date specified in the notice published under paragraph (3)(B)(i) by the receiver from any claimant which is proved to the satisfaction of the receiver.

''(C) DISALLOWANCE OF CLAIMS FILED AFTER FILING PERIOD.—Claims filed after the date specified in the notice published under paragraph (3)(B)(i), or the date specified under paragraph (3)(C), shall be disallowed and such disallowance shall be final.

''(D) AUTHORITY TO DISALLOW CLAIMS.—

''(i) IN GENERAL.—The receiver may disallow any portion of any claim by a creditor or claim of security, preference, or priority which is not proved to the satisfaction of the receiver.

''(ii) PAYMENTS TO LESS THAN FULLY SECURED CREDITORS.—In the case of a claim of a creditor against a regulated entity which is secured by any property or other asset of such regulated entity, the receiver—

''(I) may treat the portion of such claim which exceeds an amount equal to the fair market value of such property or other asset as an unsecured claim against the regulated entity; and

''(II) may not make any payment with respect to such unsecured portion of the claim, other than in connection with the disposition of all claims of unsecured creditors of the regulated entity.

''(iii) EXCEPTIONS.—No provision of this paragraph shall apply with respect to—

''(I) any extension of credit from any Federal Reserve Bank or the United States Treasury; or

''(II) any security interest in the assets of the regulated entity securing any such extension of credit.

''(E) NO JUDICIAL REVIEW OF DETERMINATION PURSUANT TO SUBPARAGRAPH (d).—No court may review the determination of the Agency under subparagraph (D) to disallow a claim.

''(F) LEGAL EFFECT OF FILING.—

''(i) STATUTE OF LIMITATION TOLLED.—For purposes of any applicable statute of limitations, the filing of a claim with the receiver shall constitute a commencement of an action.

''(ii) NO PREJUDICE TO OTHER ACTIONS.—Subject to paragraph (10), the filing of a claim with the receiver shall not prejudice any right of the claimant to continue any action which was filed before the date of the appointment of the receiver, subject to the determination of claims by the receiver.

''(6) PROVISION FOR JUDICIAL DETERMINATION OF CLAIMS.—

''(A) IN GENERAL.—The claimant may file suit on a claim (or continue an action commenced before the appointment of the receiver) in the district or territorial court of the United States for the district within which the principal place of business of the regulated entity is located or the United States District Court for the District of Columbia (and such court shall have jurisdiction to hear such claim), before the end of the 60-day period beginning on the earlier of—

''(i) the end of the period described in paragraph (5)(A)(i) with respect to any claim against a regulated entity for which the Agency is receiver; or

''(ii) the date of any notice of disallowance of such claim pursuant to paragraph (5)(A)(i).

''(B) STATUTE OF LIMITATIONS.—A claim shall be deemed to be disallowed (other than any portion of such claim which was allowed by the receiver), and such disallowance shall be final, and the claimant shall have no further rights or remedies with respect to such claim, if the claimant fails, before the end of the 60-day period described under subparagraph (A), to file suit on such claim (or continue an action commenced before the appointment of the receiver).

''(7) REVIEW OF CLAIMS.—

''(A) OTHER REVIEW PROCEDURES.—

''(i) IN GENERAL.—The Agency shall establish such alternative dispute resolution processes as may be appropriate for the resolution of claims filed under paragraph (5)(A)(i).

''(ii) CRITERIA.—In establishing alternative dispute resolution processes, the Agency shall strive for procedures which are expeditious, fair, independent, and low cost.

''(iii) VOLUNTARY BINDING OR NONBINDING PROCEDURES.—The Agency may establish both binding and nonbinding processes under this subparagraph, which may be conducted by any government or private party. All parties, including the claimant and the Agency, must agree to the use of the process in a particular case.

''(B) CONSIDERATION OF INCENTIVES.—The Agency shall seek to develop incentives for claimants to participate in the alternative dispute resolution process.

''(8) EXPEDITED DETERMINATION OF CLAIMS.—

''(A) ESTABLISHMENT REQUIRED.—The Agency shall establish a procedure for expedited relief outside of the routine claims process established under paragraph (5) for claimants who—

''(i) allege the existence of legally valid and enforceable or perfected security interests in assets of any regulated entity for which the Agency has been appointed receiver; and

''(ii) allege that irreparable injury will occur if the routine claims procedure is followed.

''(B) DETERMINATION PERIOD.—Before the end of the 90-day period beginning on the date on which any claim is filed in accordance with the procedures established under subparagraph (A), the Director shall—

''(i) determine—

''(I) whether to allow or disallow such claim; or

''(II) whether such claim should be determined pursuant to the procedures established under paragraph (5); and

''(ii) notify the claimant of the determination, and if the claim is disallowed, provide a statement of each reason for the disallowance and the procedure for obtaining agency review or judicial determination.

''(C) PERIOD FOR FILING OR RENEWING SUIT.—Any claimant who files a request for expedited relief shall be permitted to file a suit, or to continue a suit filed before the date of appointment of the receiver, seeking a determination of the rights of the claimant with respect to such security interest after the earlier of—

''(i) the end of the 90-day period beginning on the date of the filing of a request for expedited relief; or

''(ii) the date on which the Agency denies the claim.

''(D) STATUTE OF LIMITATIONS.—If an action described under subparagraph (C) is not filed, or the motion to renew a previously filed suit is not made, before the end of the 30-day period beginning on the date on which such action or motion may be filed under subparagraph (B), the claim shall be deemed to be disallowed as of the end of such period (other than any portion of such claim which was allowed by the receiver), such disallowance shall be final, and the claimant shall have no further rights or remedies with respect to such claim.

''(E) LEGAL EFFECT OF FILING.—

''(i) STATUTE OF LIMITATION TOLLED.—For purposes of any applicable statute of limitations, the filing of a claim with the receiver shall constitute a commencement of an action.

''(ii) NO PREJUDICE TO OTHER ACTIONS.—Subject to paragraph (10), the filing of a claim with the receiver shall not prejudice any right of the claimant to continue any action that was filed before the appointment of the receiver, subject to the determination of claims by the receiver.

''(9) PAYMENT OF CLAIMS.—

''(A) IN GENERAL.—The receiver may, in the discretion of the receiver, and to the extent that funds are available from the assets of the regulated entity, pay creditor claims, in such manner and amounts as are authorized under this section, which are—

''(i) allowed by the receiver;

''(ii) approved by the Agency pursuant to a final determination pursuant to paragraph (7) or (8); or

''(iii) determined by the final judgment of any court of competent jurisdiction.

''(B) AGREEMENTS AGAINST THE INTEREST OF THE AGENCY.—No agreement that tends to diminish or defeat the interest of the Agency in any asset acquired by the Agency as receiver under this section shall be valid against the Agency unless such agreement is in writing and executed by an authorized officer or representative of the regulated entity.

''(C) PAYMENT OF DIVIDENDS ON CLAIMS.—The receiver may, in the sole discretion of the receiver, pay from the assets of the regulated entity dividends on proved claims at any time, and no liability shall attach to the Agency by reason of any such payment, for failure to pay dividends to a claimant whose claim is not proved at the time of any such payment.

''(D) RULEMAKING AUTHORITY OF THE DIRECTOR.—The Director may prescribe such rules, including definitions of terms, as the Director deems appropriate to establish a single uniform interest rate for, or to make payments of post-insolvency interest to creditors holding proven claims against the receivership estates of regulated entity, following satisfaction by the receiver of the principal amount of all creditor claims.

''(10) SUSPENSION OF LEGAL ACTIONS.—

''(A) IN GENERAL.—After the appointment of a conservator or receiver for a regulated entity, the conservator or receiver may, in any judicial action or proceeding to which such regulated entity is or becomes a party, request a stay for a period not to exceed—

''(i) 45 days, in the case of any conservator; and

''(ii) 90 days, in the case of any receiver.

''(B) GRANT OF STAY BY ALL COURTS REQUIRED.—Upon receipt of a request by the conservator or receiver under subparagraph (A) for a stay of any judicial action or proceeding in any court with jurisdiction of such action or proceeding, the court shall grant such stay as to all parties.

''(11) ADDITIONAL RIGHTS AND DUTIES.—

''(A) PRIOR FINAL ADJUDICATION.—The Agency shall abide by any final unappealable judgment of any court of competent jurisdiction which was rendered before the appointment of the Agency as conservator or receiver.

''(B) RIGHTS AND REMEDIES OF CONSERVATOR OR RECEIVER.—In the event of any appealable judgment, the Agency as conservator or receiver—

''(i) shall have all of the rights and remedies available to the regulated entity (before the appointment of such conservator or receiver) and the Agency, including removal to Federal court and all appellate rights; and

''(ii) shall not be required to post any bond in order to pursue such remedies.

''(C) NO ATTACHMENT OR EXECUTION.—No attachment or execution may issue by any court upon assets in the possession of the receiver, or upon the charter, of a regulated entity for which the Agency has been appointed receiver.

''(D) LIMITATION ON JUDICIAL REVIEW.—Except as otherwise provided in this subsection, no court shall have jurisdiction over—

''(i) any claim or action for payment from, or any action seeking a determination of rights with respect to, the assets or charter of any regulated entity for which the Agency has been appointed receiver; or

''(ii) any claim relating to any act or omission of such regulated entity or the Agency as receiver.

''(E) DISPOSITION OF ASSETS.—In exercising any right, power, privilege, or authority as conservator or receiver in connection with any sale or disposition of assets of a regulated entity for which the Agency has been appointed conservator or receiver, the Agency shall conduct its operations in a manner which—

''(i) maximizes the net present value return from the sale or disposition of such assets;

''(ii) minimizes the amount of any loss realized in the resolution of cases; and

''(iii) ensures adequate competition and fair and consistent treatment of offerors.

''(12) STATUTE OF LIMITATIONS FOR ACTIONS BROUGHT BY CONSERVATOR OR RECEIVER.—

''(A) IN GENERAL.—Notwithstanding any provision of any contract, the applicable statute of limitations with regard to any action brought by the Agency as conservator or receiver shall be—

''(i) in the case of any contract claim, the longer of—

''(I) the 6-year period beginning on the date on which the claim accrues; or

''(II) the period applicable under State law; and

''(ii) in the case of any tort claim, the longer of—

''(I) the 3-year period beginning on the date on which the claim accrues; or

''(II) the period applicable under State law.

''(B) DETERMINATION OF THE DATE ON WHICH A CLAIM ACCRUES.—For purposes of subparagraph (A), the date on which the statute of limitations begins to run on any claim described in such subparagraph shall be the later of—

''(i) the date of the appointment of the Agency as conservator or receiver; or

''(ii) the date on which the cause of action accrues.

''(13) REVIVAL OF EXPIRED STATE CAUSES OF ACTION.—

''(A) IN GENERAL.—In the case of any tort claim described under subparagraph (B) for which the statute of limitations applicable under State law with respect to such claim has expired not more than 5 years before the appointment of the Agency as conservator or receiver, the Agency may bring an action as conservator or receiver on such claim without regard to the expiration of the statute of limitations applicable under State law.

''(B) CLAIMS DESCRIBED.—A tort claim referred to under subparagraph (A) is a claim arising from fraud, intentional misconduct resulting in unjust enrichment, or intentional misconduct resulting in substantial loss to the regulated entity.

''(14) ACCOUNTING AND RECORDKEEPING REQUIREMENTS.—

''(A) IN GENERAL.—The Agency as conservator or receiver shall, consistent with the accounting and reporting practices and procedures established by the Agency, maintain a full accounting of each conservatorship and receivership or other disposition of a regulated entity in default.

''(B) ANNUAL ACCOUNTING OR REPORT.—With respect to each conservatorship or receivership, the Agency shall make an annual accounting or report available to the Board, the Comptroller General of the United States, the Committee on Banking, Housing, and Urban Affairs of the Senate, and the Committee on Financial Services of the House of Representatives.

''(C) AVAILABILITY OF REPORTS.—Any report prepared under subparagraph (B) shall be made available by the Agency upon request to any shareholder of a regulated entity or any member of the public.

''(D) RECORDKEEPING REQUIREMENT.—After the end of the 6-year period beginning on the date on which the conservatorship or receivership is terminated by the Director, the Agency may destroy any records of such regulated entity which the Agency, in the discretion of the Agency, determines to be unnecessary, unless directed not to do so by a court of competent jurisdiction or governmental agency, or prohibited by law.

''(15) FRAUDULENT TRANSFERS.—

''(A) IN GENERAL.—The Agency, as conservator or receiver, may avoid a transfer of any interest of an entity-affiliated party, or any person determined by the conservator or receiver to be a debtor of the regulated entity, in property, or any obligation incurred by such party or person, that was made within 5 years of the date on which the Agency was appointed conservator or receiver, if such party or person voluntarily or involuntarily made such transfer or incurred such liability with the intent to hinder, delay, or defraud the regulated entity, the Agency, the conservator, or receiver.

''(B) RIGHT OF RECOVERY.—To the extent a transfer is avoided under subparagraph (A), the conservator or receiver may recover, for the benefit of the regulated entity, the property transferred, or, if a court so orders, the value of such property (at the time of such transfer) from—

''(i) the initial transferee of such transfer or the entity-affiliated party or person for whose benefit such transfer was made; or

''(ii) any immediate or mediate transferee of any such initial transferee.

''(C) RIGHTS OF TRANSFEREE OR OBLIGEE.—The conservator or receiver may not recover under subparagraph (B) from—

''(i) any transferee that takes for value, including satisfaction or securing of a present or antecedent debt, in good faith; or

''(ii) any immediate or mediate good faith transferee of such transferee.

''(D) RIGHTS UNDER THIS PARAGRAPH.—The rights under this paragraph of the conservator or receiver described under subparagraph (A) shall be superior to any rights of a trustee or any other party (other than any party which is a Federal agency) under title 11, United States Code.

''(16) ATTACHMENT OF ASSETS AND OTHER INJUNCTIVE RELIEF.—Subject to paragraph (17), any court of competent jurisdiction may, at the request of the conservator or receiver, issue an order in accordance with Rule 65 of the Federal Rules of Civil Procedure, including an order placing the assets of any person designated by the conservator or receiver under the control of the court, and appointing a trustee to hold such assets.

''(17) STANDARDS OF PROOF.—Rule 65 of the Federal Rules of Civil Procedure shall apply with respect to any proceeding under paragraph (16) without regard to the requirement of such rule that the applicant show that the injury, loss, or damage is irreparable and immediate.

''(18) TREATMENT OF CLAIMS ARISING FROM BREACH OF CONTRACTS EXECUTED BY THE CONSERVATOR OR RECEIVER.—

''(A) IN GENERAL.—Notwithstanding any other provision of this subsection, any final and unappealable judgment for monetary damages entered against the conservator or receiver for the breach of an agreement executed or approved in writing by the conservator or receiver after the date of its appointment, shall be paid as an administrative expense of the conservator or receiver.

''(B) NO LIMITATION OF POWER.—Nothing in this paragraph shall be construed to limit the power of the conservator or receiver to exercise any rights under contract or law, including to terminate, breach, cancel, or otherwise discontinue such agreement.

''(19) GENERAL EXCEPTIONS.—

''(A) LIMITATIONS.—The rights of the conservator or receiver appointed under this section shall be subject to the limitations on the powers of a receiver under sections 402 through 407 of the Federal Deposit Insurance Corporation Improvement Act of 1991 (12 U.S.C. 4402 through 4407).

''(B) MORTGAGES HELD IN TRUST.—

''(i) IN GENERAL.—Any mortgage, pool of mortgages, or interest in a pool of mortgages held in trust, custodial, or agency capacity by an enterprise for the benefit of any person other than the enterprise shall not be available to satisfy the claims of creditors generally.

''(ii) HOLDING OF MORTGAGES.—Any mortgage, pool of mortgages, or interest in a pool of mortgages described in clause (i) shall be held by the conservator or receiver appointed under this section for the beneficial owners of such mortgage, pool of mortgages, or interest in accordance with the terms of the agreement creating such trust, custodial, or other agency arrangement.

''(iii) LIABILITY OF CONSERVATOR OR RECEIVER.—The liability of the conservator or receiver appointed under this section for damages shall, in the case of any contingent or unliquidated claim relating to the mortgages held in trust, be estimated in accordance with in the regulations of the Director.

''(c) PRIORITY OF EXPENSES AND UNSECURED CLAIMS.—

''(1) IN GENERAL.—Unsecured claims against a regulated entity, or the receiver therefor, that are proven to the satisfaction

of the receiver shall have priority in the following order:

''(A) Administrative expenses of the receiver.

''(B) Any other general or senior liability of the regulated entity (which is not a liability described under subparagraph (C) or (D).

''(C) Any obligation subordinated to general creditors (which is not an obligation described under subparagraph (D)).

''(D) Any obligation to shareholders or members arising as a result of their status as shareholder or members.

''(2) CREDITORS SIMILARLY SITUATED.—All creditors that are similarly situated under paragraph (1) shall be treated in a similar manner, except that the receiver may take any action (including making payments) that does not comply with this subsection, if—

''(A) the Director determines that such action is necessary to maximize the value of the assets of the regulated entity, to maximize the present value return from the sale or other disposition of the assets of the regulated entity, or to minimize the amount of any loss realized upon the sale or other disposition of the assets of the regulated entity assets; and

''(B) all creditors that are similarly situated under paragraph (1) receive not less than the amount provided in subsection (e)(2).

''(3) DEFINITION.—As used in this subsection, the term 'administrative expenses of the receiver' includes—

''(A) the actual, necessary costs and expenses incurred by the receiver in preserving the assets of a failed regulated entity or liquidating or otherwise resolving the affairs of a failed regulated entity; and

''(B) any obligations that the receiver determines are necessary and appropriate to facilitate the smooth and orderly liquidation or other resolution of the regulated entity.

''(d) PROVISIONS RELATING TO CONTRACTS ENTERED INTO BEFORE APPOINTMENT OF CONSERVATOR OR RECEIVER.—

''(1) AUTHORITY TO REPUDIATE CONTRACTS.—In addition to any other rights a conservator or receiver may have, the conservator or receiver for any regulated entity may disaffirm or repudiate any contract or lease—

''(A) to which such regulated entity is a party;

''(B) the performance of which the conservator or receiver, in its sole discretion, determines to be burdensome; and

''(C) the disaffirmance or repudiation of which the conservator or receiver determines, in its sole discretion, will promote the orderly administration of the affairs of the regulated entity.

''(2) TIMING OF REPUDIATION.—The conservator or receiver shall determine whether or not to exercise the rights of repudiation under this subsection within a reasonable period following such appointment.

''(3) CLAIMS FOR DAMAGES FOR REPUDIATION.—

''(A) IN GENERAL.—Except as otherwise provided under subparagraph (C) and paragraphs (4), (5), and (6), the liability of the conservator or receiver for the disaffirmance or repudiation of any contract pursuant to paragraph (1) shall be—

''(i) limited to actual direct compensatory damages; and

''(ii) determined as of—

''(I) the date of the appointment of the conservator or receiver; or

''(II) in the case of any contract or agreement referred to in paragraph (8), the date of the disaffirmance or repudiation of such contract or agreement.

''(B) NO LIABILITY FOR OTHER DAMAGES.—For purposes of subparagraph (A), the term 'actual direct compensatory damages' shall not include—

''(i) punitive or exemplary damages;

''(ii) damages for lost profits or opportunity; or

''(iii) damages for pain and suffering.

''(C) MEASURE OF DAMAGES FOR REPUDIATION OF FINANCIAL CONTRACTS.—In the case of any qualified financial contract or agreement to which paragraph (8) applies, compensatory damages shall be—

''(i) deemed to include normal and reasonable costs of cover or other reasonable measures of damages utilized in the industries for such contract and agreement claims; and

''(ii) paid in accordance with this subsection and subsection (e), except as otherwise specifically provided in this section.

''(4) LEASES UNDER WHICH THE REGULATED ENTITY IS THE LESSEE.—

''(A) IN GENERAL.—If the conservator or receiver disaffirms or repudiates a lease under which the regulated entity was the lessee, the conservator or receiver shall not be liable for any damages (other than damages determined under subparagraph (B)) for the disaffirmance or repudiation of such lease.

''(B) PAYMENTS OF RENT.—Notwithstanding subparagraph (A), the lessor under a lease to which that subparagraph applies shall—

''(i) be entitled to the contractual rent accruing before the later of the date on which—

''(I) the notice of disaffirmance or repudiation is mailed; or

''(II) the disaffirmance or repudiation becomes effective, unless the lessor is in default or breach of the terms of the lease;

''(ii) have no claim for damages under any acceleration clause or other penalty provision in the lease; and

''(iii) have a claim for any unpaid rent, subject to all appropriate offsets and defenses, due as of the date of the appointment, which shall be paid in accordance with this subsection and subsection (e).

''(5) LEASES UNDER WHICH THE REGULATED ENTITY IS THE LESSOR.—

''(A) IN GENERAL.—If the conservator or receiver repudiates an unexpired written lease of real property of the regulated entity under which the regulated entity is the lessor and the lessee is not, as of the date of such repudiation, in default, the lessee under such lease may either—

''(i) treat the lease as terminated by such repudiation; or

''(ii) remain in possession of the leasehold interest for the balance of the term of the lease, unless the lessee defaults under the terms of the lease after the date of such repudiation.

''(B) PROVISIONS APPLICABLE TO LESSEE REMAINING IN POSSESSION.—If any lessee under a lease described under subparagraph (A) remains in possession of a leasehold interest under clause (ii) of subparagraph (A)—

''(i) the lessee—

''(I) shall continue to pay the contractual rent pursuant to the terms of the lease after the date of the repudiation of such lease; and

''(II) may offset against any rent payment which accrues after the date of the repudiation of the lease, and any damages which accrue after such date due to the nonperformance of any obligation of the regulated entity under the lease after such date; and

''(ii) the conservator or receiver shall not be liable to the lessee for any damages arising after such date as a result of the repudiation, other than the amount of any offset allowed under clause (i)(II).

''(6) CONTRACTS FOR THE SALE OF REAL PROPERTY.—

''(A) IN GENERAL.—If the conservator or receiver repudiates any contract for the sale of real property and the purchaser of such real property under such contract is in possession, and is not, as of the date of such repudiation, in default, such purchaser may either—

''(i) treat the contract as terminated by such repudiation; or

''(ii) remain in possession of such real property.

''(B) PROVISIONS APPLICABLE TO PURCHASER REMAINING IN POSSESSION.—If any purchaser of real property under any contract described under subparagraph (A) remains in possession of such property under clause (ii) of subparagraph (A)—

''(i) the purchaser—

''(I) shall continue to make all payments due under the contract after the date of the repudiation of the contract; and

''(II) may offset against any such payments any damages which accrue after such date due to the nonperformance (after such date) of any obligation of the regulated entity under the contract; and

''(ii) the conservator or receiver shall—

''(I) not be liable to the purchaser for any damages arising after such date as a result of the repudiation, other than the amount of any offset allowed under clause (i)(II);

''(II) deliver title to the purchaser in accordance with the provisions of the contract; and

''(III) have no obligation under the contract other than the performance required under subclause (II).

''(C) ASSIGNMENT AND SALE ALLOWED.—

''(i) IN GENERAL.—No provision of this paragraph shall be construed as limiting the right of the conservator or receiver to assign the contract described under subparagraph (A), and sell the property subject to the contract and the provisions of this paragraph.

''(ii) NO LIABILITY AFTER ASSIGNMENT AND SALE.—If an assignment and sale described under clause (i) is consummated, the conservator or receiver shall have no further liability under the contract described under subparagraph (A), or with respect to the real property which was the subject of such contract.

''(7) SERVICE CONTRACTS.—

''(A) SERVICES PERFORMED BEFORE APPOINTMENT.—In the case of any contract for services between any person and any regulated entity for which the Agency has been appointed conservator or receiver, any claim of such person for services performed before the appointment of the conservator or receiver shall be—

''(i) a claim to be paid in accordance with subsections (b) and (e); and

''(ii) deemed to have arisen as of the date on which the conservator or receiver was appointed.

''(B) SERVICES PERFORMED AFTER APPOINTMENT AND PRIOR TO REPUDIATION.—If, in the case of any contract for services described under subparagraph (A), the conservator or receiver accepts performance by the other person before the conservator or receiver makes any determination to exercise the right of repudiation of such contract under this section—

''(i) the other party shall be paid under the terms of the contract for the services performed; and

''(ii) the amount of such payment shall be treated as an administrative expense of the conservatorship or receivership.

''(C) ACCEPTANCE OF PERFORMANCE NO BAR TO SUBSEQUENT REPUDIATION.—The acceptance by the conservator or receiver of services referred to under subparagraph (B) in connection with a contract described in such subparagraph shall not affect the right of the conservator or receiver to repudiate such contract under this section at any time after such performance.

''(8) CERTAIN QUALIFIED FINANCIAL CONTRACTS.—

''(A) RIGHTS OF PARTIES TO CONTRACTS.—Subject to paragraphs (9) and (10), and notwithstanding any other provision of this title (other than subsection (b)(9)(B) of this section), any other Federal law, or the law of any State, no person shall be stayed or prohibited from exercising—

''(i) any right of that person to cause the termination, liquidation, or acceleration of any qualified financial contract with a regulated entity that arises upon the appointment of the Agency as receiver for such regulated entity at any time after such appointment;

''(ii) any right under any security agreement or arrangement or other credit enhancement relating to one or more qualified financial contracts; or

''(iii) any right to offset or net out any termination value, payment amount, or other transfer obligation arising under or in connection with 1 or more contracts and agreements described in clause (i), including any master agreement for such contracts or agreements.

''(B) APPLICABILITY OF OTHER PROVISIONS.—Subsection (b)(10) shall apply in the case of any judicial action or proceeding brought against any receiver referred to under subparagraph (A), or the regulated entity for which such receiver was appointed, by any party to a contract or agreement described under subparagraph (A)(i) with such regulated entity.

''(C) CERTAIN TRANSFERS NOT AVOIDABLE.—

''(i) IN GENERAL.—Notwithstanding paragraph (11), or any other provision of Federal or State law relating to the avoidance of preferential or fraudulent transfers, the Agency, whether acting as such or as conservator or receiver of a regulated entity, may not avoid any transfer of money or other property in connection with any qualified financial contract with a regulated entity.

''(ii) EXCEPTION FOR CERTAIN TRANSFERS.—Clause (i) shall not apply to any transfer of money or other property in connection with any qualified financial contract with a regulated entity if the Agency determines that the transferee had actual intent to hinder, delay, or defraud such regulated entity, the creditors of such regulated entity, or any conservator or receiver appointed for such regulated entity.

''(D) CERTAIN CONTRACTS AND AGREEMENTS DEFINED.—In this subsection the following definitions shall apply:

''(i) QUALIFIED FINANCIAL CONTRACT.—The term 'qualified financial contract' means any securities contract, commodity contract, forward contract, repurchase agreement, swap agreement, and any similar agreement that the Agency determines by regulation, resolution, or order to be a qualified financial contract for purposes of this paragraph.

''(ii) SECURITIES CONTRACT.—The term 'securities contract'—

''(I) means a contract for the purchase, sale, or loan of a security, a certificate of deposit, a mortgage loan, or any interest in a mortgage loan, a group or index of securities, certificates of deposit, or mortgage loans or interests therein (including any interest therein or based on the value thereof) or any option on any of the foregoing, including any option to purchase or sell any such security, certificate of deposit, mortgage loan, interest, group or index, or option, and including any repurchase or reverse repurchase transaction on any such security, certificate of deposit, mortgage loan, interest, group or index, or option;

''(II) does not include any purchase, sale, or repurchase obligation under a participation in a commercial mortgage loan, unless the Agency determines by regulation, resolution, or order to include any such agreement within the meaning of such term;

''(III) means any option entered into on a national securities exchange relating to foreign currencies;

''(IV) means the guarantee by or to any securities clearing agency of any settlement of cash, securities, certificates of deposit, mortgage loans or interests therein, group or index of securities, certificates of deposit, or mortgage loans or interests therein (including any interest therein or based on the value thereof) or option on any of the foregoing, including any option to purchase or sell any such security, certificate of deposit, mortgage loan, interest, group or index, or option;

''(V) means any margin loan;

''(VI) means any other agreement or transaction that is similar to any agreement or transaction referred to in this clause;

''(VII) means any combination of the agreements or transactions referred to in this clause;

''(VIII) means any option to enter into any agreement or transaction referred to in this clause;

''(IX) means a master agreement that provides for an agreement or transaction referred to in subclause (I), (III), (IV), (V), (VI), (VII), or (VIII), together with all supplements to any such master agreement, without regard to whether the master agreement provides for an agreement or transaction that is not a securities contract under this clause, except that the master agreement shall be considered to be a securities contract under this clause only with respect to each agreement or transaction under the master agreement that is referred to in subclause (I), (III), (IV), (V), (VI), (VII), or (VIII); and

''(X) means any security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in this clause, including any guarantee or reimbursement obligation in connection with any agreement or transaction referred to in this clause.

''(iii) COMMODITY CONTRACT.—The term 'commodity contract' means—

''(I) with respect to a futures commission merchant, a contract for the purchase or sale of a commodity for future delivery on, or subject to the rules of, a contract market or board of trade;

''(II) with respect to a foreign futures commission merchant, a foreign future;

''(III) with respect to a leverage transaction merchant, a leverage transaction;

''(IV) with respect to a clearing organization, a contract for the purchase or sale of a commodity for future delivery on, or subject to the rules of, a contract market or board of trade that is cleared by such clearing organization, or commodity option traded on, or subject to the rules of, a contract market or board of trade that is cleared by such clearing organization;

''(V) with respect to a commodity options dealer, a commodity option;

''(VI) any other agreement or transaction that is similar to any agreement or transaction referred to in this clause;

''(VII) any combination of the agreements or transactions referred to in this clause;

''(VIII) any option to enter into any agreement or transaction referred to in this clause;

''(IX) a master agreement that provides for an agreement or transaction referred to in subclause (I), (II), (III), (IV), (V), (VI), (VII), or (VIII), together with all supplements to any such master agreement, without regard to whether the master agreement provides for an agreement or transaction that is not a commodity contract under this clause, except that the master agreement shall be considered to be a commodity contract under this clause only with respect to each agreement or transaction under the master agreement that is referred to in subclause (I), (II), (III), (IV), (V), (VI), (VII), or (VIII); or

''(X) any security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in this clause, including any guarantee or reimbursement obligation in connection with any agreement or transaction referred to in this clause.

''(iv) FORWARD CONTRACT.—The term 'forward contract' means—

''(I) a contract (other than a commodity contract) for the purchase, sale, or transfer of a commodity or any similar good, article, service, right, or interest which is presently or in the future becomes the subject of dealing in the forward contract trade, or product or byproduct thereof, with a maturity date more than 2 days after the date on which the contract is entered into, including a repurchase transaction, reverse repurchase transaction, consignment, lease, swap, hedge transaction, deposit, loan, option, allocated transaction, unallocated transaction, or any other similar agreement;

''(II) any combination of agreements or transactions referred to in subclauses (I) and (III);

''(III) any option to enter into any agreement or transaction referred to in subclause (I) or (II);

''(IV) a master agreement that provides for an agreement or transaction referred to in subclauses (I), (II), or (III), together with all supplements to any such master agreement, without regard to whether the master agreement provides for an agreement or transaction that is not a forward contract under this clause, except that the master agreement shall be considered to be a forward contract under this clause only with respect to each agreement or transaction under the master agreement that is referred to in subclause (I), (II), or (III); or

''(V) any security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in subclause (I), (II), (III), or (IV), including any guarantee or reimbursement obligation in connection with any agreement or transaction referred to in any such subclause.

''(v) REPURCHASE AGREEMENT.—The term 'repurchase agreement' (including a reverse repurchase agreement)—

''(I) means an agreement, including related terms, which provides for the transfer of one or more certificates of deposit, mortgage-related securities (as such term is defined in section 3 of the Securities Exchange Act of 1934), mortgage loans, interests in mortgage-related securities or mortgage loans, eligible bankers' acceptances, qualified foreign government securities (defined for purposes of this clause as a security that is a direct obligation of, or that is fully guaranteed by, the central government of a member of the Organization for Economic Cooperation and Development, as determined by regulation or order adopted by the appropriate Federal banking authority), or securities that are direct obligations of, or that are fully guaranteed by, the United States or any agency of the United States against the transfer of funds by the transferee of such certificates of deposit, eligible bankers' acceptances, securities, mortgage loans, or interests with a simultaneous agreement by such transferee to transfer to the transferor thereof certificates of deposit, eligible bankers' acceptances, securities, mortgage loans, or interests as described above, at a date certain not later than 1 year after such transfers or on demand, against the transfer of funds, or any other similar agreement;

''(II) does not include any repurchase obligation under a participation in a commercial mortgage loan, unless the Agency determines by regulation, resolution, or order to include any such participation within the meaning of such term;

''(III) means any combination of agreements or transactions referred to in subclauses (I) and (IV);

''(IV) means any option to enter into any agreement or transaction referred to in subclause (I) or (III);

''(V) means a master agreement that provides for an agreement or transaction referred to in subclause (I), (III), or (IV), together with all supplements to any such master agreement, without regard to whether the master agreement provides for an agreement or transaction that is not a repurchase agreement under this clause, except that the master agreement shall be considered to be a repurchase agreement under this subclause only with respect to each agreement or transaction under the master agreement that is referred to in subclause (I), (III), or (IV); and

''(VI) means any security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in subclause (I), (III), (IV), or (V), including any guarantee or reimbursement obligation in connection with any agreement or transaction referred to in any such subclause.

''(vi) SWAP AGREEMENT.—The term 'swap agreement' means—

''(I) any agreement, including the terms and conditions incorporated by reference in any such agreement, which is an interest rate swap, option, future, or forward agreement, including a rate floor, rate cap, rate collar, cross-currency rate swap, and basis swap; a spot, same day-tomorrow, tomorrow-next, forward, or other foreign exchange or precious metals agreement; a currency swap, option, future, or forward agreement; an equity index or equity swap, option, future, or forward agreement; a debt index or debt swap, option, future, or forward agreement; a total return, credit spread or credit swap, option, future, or forward agreement; a commodity index or commodity swap, option, future, or forward agreement; or a weather swap, weather derivative, or weather option;

''(II) any agreement or transaction that is similar to any other agreement or transaction referred to in this clause and that is of a type that has been, is presently, or in the future becomes, the subject of recurrent dealings in the swap markets (including terms and conditions incorporated by reference in such agreement) and that is a forward, swap, future, or option on one or more rates, currencies, commodities, equity securities or other equity instruments, debt securities or other debt instruments, quantitative measures associated with an occurrence, extent of an occurrence, or contingency associated with a financial, commercial, or economic consequence, or economic or financial indices or measures of economic or financial risk or value;

''(III) any combination of agreements or transactions referred to in this clause;

''(IV) any option to enter into any agreement or transaction referred to in this clause;

''(V) a master agreement that provides for an agreement or transaction referred to in subclause (I), (II), (III), or (IV), together with all supplements to any such master agreement, without regard to whether the master agreement contains an agreement or transaction that is not a swap agreement under this clause, except that the master agreement shall be considered to be a swap agreement under this clause only with respect to each agreement or transaction under the master agreement that is referred to in subclause (I), (II), (III), or (IV); and

''(VI) any security agreement or arrangement or other credit enhancement related to any agreements or transactions referred to in subclause (I), (II), (III), (IV), or (V), including any guarantee or reimbursement obligation in connection with any agreement or transaction referred to in any such subclause.

''(vii) TREATMENT OF MASTER AGREEMENT AS ONE AGREEMENT.—Any master agreement for any contract or agreement described in any preceding clause of this subparagraph (or any master agreement for such master agreement or agreements), together with all supplements to such master agreement, shall be treated as a single agreement and a single qualified financial contract. If a master agreement contains provisions relating to agreements or transactions that are not themselves qualified financial contracts, the master agreement shall be deemed to be a qualified financial contract only with respect to those transactions that are themselves qualified financial contracts.

''(viii) TRANSFER.—The term 'transfer' means every mode, direct or indirect, absolute or conditional, voluntary or involuntary, of disposing of or parting with property or with an interest in property, including retention of title as a security interest and foreclosure of the equity of redemption of the regulated entity.

''(E) CERTAIN PROTECTIONS IN EVENT OF APPOINTMENT OF CONSERVATOR.—Notwithstanding any other provision of this section, any other Federal law, or the law of any State (other than paragraph (10) of this subsection and subsection (b)(9)(B)), no person shall be stayed or prohibited from exercising—

''(i) any right such person has to cause the termination, liquidation, or acceleration of any qualified financial contract with a regulated entity in a conservatorship based upon a default under such financial contract which is enforceable under applicable noninsolvency law;

''(ii) any right under any security agreement or arrangement or other credit enhancement relating to 1 or more such qualified financial contracts; or

''(iii) any right to offset or net out any termination values, payment amounts, or other transfer obligations arising under or in connection with such qualified financial contracts.

''(F) CLARIFICATION.—No provision of law shall be construed as limiting the right or power of the Agency, or authorizing any court or agency to limit or delay in any manner, the right or power of the Agency to transfer any qualified financial contract in accordance with paragraphs (9) and (10), or to disaffirm or repudiate any such contract in accordance with subsection (d)(1).

''(G) WALKAWAY CLAUSES NOT EFFECTIVE.—

''(i) IN GENERAL.—Notwithstanding the provisions of subparagraphs (A) and (E), and sections 403 and 404 of the Federal Deposit Insurance Corporation Improvement Act of 1991, no walkaway clause shall be enforceable in a qualified financial contract of a regulated entity in default.

''(ii) WALKAWAY CLAUSE DEFINED.—For purposes of this subparagraph, the term 'walkaway clause' means a provision in a qualified financial contract that, after calculation of a value of a party's position or an amount due to or from 1 of the parties in accordance with its terms upon termination, liquidation, or acceleration of the qualified financial contract, either does not create a payment obligation of a party or extinguishes a payment obligation of a party in whole or in part solely because of the status of such party as a nondefaulting party.

''(9) TRANSFER OF QUALIFIED FINANCIAL CONTRACTS.—In making any transfer of assets or liabilities of a regulated entity in default which includes any qualified financial contract, the conservator or receiver for such regulated entity shall either—

''(A) transfer to 1 person—

''(i) all qualified financial contracts between any person (or any affiliate of such person) and the regulated entity in default;

''(ii) all claims of such person (or any affiliate of such person) against such regulated entity under any such contract (other than any claim which, under the terms of any such contract, is subordinated to the claims of general unsecured creditors of such regulated entity);

''(iii) all claims of such regulated entity against such person (or any affiliate of such person) under any such contract; and

''(iv) all property securing, or any other credit enhancement for any contract described in clause (i), or any claim described in clause (ii) or (iii) under any such contract; or

''(B) transfer none of the financial contracts, claims, or property referred to under subparagraph (A) (with respect to such person and any affiliate of such person).

''(10) NOTIFICATION OF TRANSFER.—

''(A) IN GENERAL.—The conservator or receiver shall notify any person that is a party to a contract or transfer by 5:00 p.m. (Eastern Standard Time) on the business day following the date of the appointment of the receiver in the case of a receivership, or the business day following such transfer in the case of a conservatorship, if—

''(i) the conservator or receiver for a regulated entity in default makes any transfer of the assets and liabilities of such regulated entity; and

''(ii) such transfer includes any qualified financial contract.

''(B) CERTAIN RIGHTS NOT ENFORCEABLE.—

''(i) RECEIVERSHIP.—A person who is a party to a qualified financial contract with a regulated entity may not exercise any right that such person has to terminate, liquidate, or net such contract under paragraph (8)(A) of this subsection or under section 403 or 404 of the Federal Deposit Insurance Corporation Improvement Act of 1991, solely by reason of or incidental to the appointment of a receiver for the regulated entity (or the insolvency or financial condition of the regulated entity for which the receiver has been appointed)—

''(I) until 5:00 p.m. (Eastern Standard Time) on the business day following the date of the appointment of the receiver; or

''(II) after the person has received notice that the contract has been transferred pursuant to paragraph (9)(A).

''(ii) CONSERVATORSHIP.—A person who is a party to a qualified financial contract with a regulated entity may not exercise any right that such person has to terminate, liquidate, or net such contract under paragraph (8)(E) of this subsection or under section 403 or 404 of the Federal Deposit Insurance Corporation Improvement Act of 1991, solely by reason of or incidental to the appointment of a conservator for the regulated entity (or the insolvency or financial condition of the regulated entity for which the conservator has been appointed).

''(iii) NOTICE.—For purposes of this paragraph, the conservator or receiver of a regulated entity shall be deemed to have notified a person who is a party to a qualified financial contract with such regulated entity, if the conservator or receiver has taken steps reasonably calculated to provide notice to such person by the time specified in subparagraph (A).

''(C) BUSINESS DAY DEFINED.—For purposes of this paragraph, the term 'business day'

means any day other than any Saturday, Sunday, or any day on which either the New York Stock Exchange or the Federal Reserve Bank of New York is closed.

''(11) DISAFFIRMANCE OR REPUDIATION OF QUALIFIED FINANCIAL CONTRACTS.—In exercising the rights of disaffirmance or repudiation of a conservator or receiver with respect to any qualified financial contract to which a regulated entity is a party, the conservator or receiver for such institution shall either—

''(A) disaffirm or repudiate all qualified financial contracts between—

''(i) any person or any affiliate of such person; and

''(ii) the regulated entity in default; or

''(B) disaffirm or repudiate none of the qualified financial contracts referred to in subparagraph (A) (with respect to such person or any affiliate of such person).

''(12) CERTAIN SECURITY INTERESTS NOT AVOIDABLE.—No provision of this subsection shall be construed as permitting the avoidance of any legally enforceable or perfected security interest in any of the assets of any regulated entity, except where such an interest is taken in contemplation of the insolvency of the regulated entity, or with the intent to hinder, delay, or defraud the regulated entity or the creditors of such regulated entity.

''(13) AUTHORITY TO ENFORCE CONTRACTS.—

''(A) IN GENERAL.—Notwithstanding any provision of a contract providing for termination, default, acceleration, or exercise of rights upon, or solely by reason of, insolvency or the appointment of, or the exercise of rights or powers by, a conservator or receiver, the conservator or receiver may enforce any contract, other than a contract for liability insurance for a director or officer, or a contract or a regulated entity bond, entered into by the regulated entity.

''(B) CERTAIN RIGHTS NOT AFFECTED.—No provision of this paragraph may be construed as impairing or affecting any right of the conservator or receiver to enforce or recover under a liability insurance contract for an officer or director, or regulated entity bond under other applicable law.

''(C) CONSENT REQUIREMENT.—

''(i) IN GENERAL.—Except as otherwise provided under this section, no person may exercise any right or power to terminate, accelerate, or declare a default under any contract to which a regulated entity is a party, or to obtain possession of or exercise control over any property of the regulated entity, or affect any contractual rights of the regulated entity, without the consent of the conservator or receiver, as appropriate, for a period of—

''(I) 45 days after the date of appointment of a conservator; or

''(II) 90 days after the date of appointment of a receiver.

''(ii) EXCEPTIONS.—This subparagraph shall not—

''(I) apply to a contract for liability insurance for an officer or director;

''(II) apply to the rights of parties to certain qualified financial contracts under subsection (d)(8); and

''(III) be construed as permitting the conservator or receiver to fail to comply with otherwise enforceable provisions of such contracts.

''(14) SAVINGS CLAUSE.—The meanings of terms used in this subsection are applicable for purposes of this subsection only, and shall not be construed or applied so as to challenge or affect the characterization, definition, or treatment of any similar terms under any other statute, regulation, or rule, including the Gramm-Leach-Bliley Act, the Legal Certainty for Bank Products Act of 2000, the securities laws (as that term is defined in section 3(a)(47) of the Securities Exchange Act of 1934), and the Commodity Exchange Act.

''(e) VALUATION OF CLAIMS IN DEFAULT.—

''(1) IN GENERAL.—Notwithstanding any other provision of Federal law or the law of any State, and regardless of the method which the Agency determines to utilize with respect to a regulated entity in default or in danger of default, including transactions authorized under subsection (i), this subsection shall govern the rights of the creditors of such regulated entity.

''(2) MAXIMUM LIABILITY.—The maximum liability of the Agency, acting as receiver or in any other capacity, to any person having a claim against the receiver or the regulated entity for which such receiver is appointed shall be not more than the amount that such claimant would have received if the Agency had liquidated the assets and liabilities of the regulated entity without exercising the authority of the Agency under subsection (i).

''(f) LIMITATION ON COURT ACTION.—Except as provided in this section or at the request of the Director, no court may take any action to restrain or affect the exercise of powers or functions of the Agency as a conservator or a receiver.

''(g) LIABILITY OF DIRECTORS AND OFFICERS.—

''(1) IN GENERAL.—A director or officer of a regulated entity may be held personally liable for monetary damages in any civil action described in paragraph (2) brought by, on behalf of, or at the request or direction of the Agency, and prosecuted wholly or partially for the benefit of the Agency—

''(A) acting as conservator or receiver of such regulated entity; or

''(B) acting based upon a suit, claim, or cause of action purchased from, assigned by, or otherwise conveyed by such receiver or conservator.

''(2) ACTIONS ADDRESSED.—Paragraph (1) applies in any civil action for gross negligence, including any similar conduct or conduct that demonstrates a greater disregard of a duty of care than gross negligence, including intentional tortious conduct, as such terms are defined and determined under applicable State law.

''(3) NO LIMITATION.—Nothing in this subsection shall impair or affect any right of the Agency under other applicable law.

''(h) DAMAGES.—In any proceeding related to any claim against a director, officer, employee, agent, attorney, accountant, appraiser, or any other party employed by or providing services to a regulated entity, recoverable damages determined to result from the improvident or otherwise improper use or investment of any assets of the regulated entity shall include principal losses and appropriate interest.

''(i) LIMITED-LIFE REGULATED ENTITIES.—

''(1) ORGANIZATION.—

''(A) PURPOSE.—The Agency, as receiver appointed pursuant to subsection (a)—

''(i) may, in the case of a Federal Home Loan Bank, organize a limited-life regulated entity with those powers and attributes of the Federal Home Loan Bank in default or in danger of default as the Director determines necessary, subject to the provisions of this subsection, and the Director shall grant a temporary charter to that limited-life regulated entity, and that limited-life regulated entity shall operate subject to that charter; and

''(ii) shall, in the case of an enterprise, organize a limited-life regulated entity with respect to that enterprise in accordance with this subsection.

''(B) AUTHORITIES.—Upon the creation of a limited-life regulated entity under subparagraph (A), the limited-life regulated entity may—

''(i) assume such liabilities of the regulated entity that is in default or in danger of default as the Agency may, in its discretion, determine to be appropriate, except that the liabilities assumed shall not exceed the amount of assets purchased or transferred from the regulated entity to the limited-life regulated entity;

''(ii) purchase such assets of the regulated entity that is in default, or in danger of default as the Agency may, in its discretion, determine to be appropriate; and

''(iii) perform any other temporary function which the Agency may, in its discretion, prescribe in accordance with this section.

''(2) CHARTER AND ESTABLISHMENT.—

''(A) TRANSFER OF CHARTER.—

''(i) FANNIE MAE.—If the Agency is appointed as receiver for the Federal National Mortgage Association, the limited-life regulated entity established under this subsection with respect to such enterprise shall, by operation of law and immediately upon its organization—

''(I) succeed to the charter of the Federal National Mortgage Association, as set forth in the Federal National Mortgage Association Charter Act; and

''(II) thereafter operate in accordance with, and subject to, such charter, this Act, and any other provision of law to which the Federal National Mortgage Association is subject, except as otherwise provided in this subsection.

''(ii) FREDDIE MAC.—If the Agency is appointed as receiver for the Federal Home Loan Mortgage Corporation, the limited-life regulated entity established under this subsection with respect to such enterprise shall, by operation of law and immediately upon its organization—

''(I) succeed to the charter of the Federal Home Loan Mortgage Corporation, as set forth in the Federal Home Loan Mortgage Corporation Charter Act; and

''(II) thereafter operate in accordance with, and subject to, such charter, this Act, and any other provision of law to which the Federal Home Loan Mortgage Corporation is subject, except as otherwise provided in this subsection.

''(B) INTERESTS IN AND ASSETS AND OBLIGATIONS OF REGULATED ENTITY IN DEFAULT.—Notwithstanding subparagraph (A) or any other provision of law—

''(i) a limited-life regulated entity shall assume, acquire, or succeed to the assets or liabilities of a regulated entity only to the extent that such assets or liabilities are transferred by the Agency to the limited-life regulated entity in accordance with, and subject to the restrictions set forth in, paragraph (1)(B);

''(ii) a limited-life regulated entity shall not assume, acquire, or succeed to any obligation that a regulated entity for which a receiver has been appointed may have to any shareholder of the regulated entity that arises as a result of the status of that person as a shareholder of the regulated entity; and

''(iii) no shareholder or creditor of a regulated entity shall have any right or claim against the charter of the regulated entity once the Agency has been appointed receiver for the regulated entity and a limited-life regulated entity succeeds to the charter pursuant to subparagraph (A).

''(C) LIMITED-LIFE REGULATED ENTITY TREATED AS BEING IN DEFAULT FOR CERTAIN PURPOSES.—A limited-life regulated entity shall be treated as a regulated entity in default at such times and for such purposes as the Agency may, in its discretion, determine.

''(D) MANAGEMENT.—Upon its establishment, a limited-life regulated entity shall be

under the management of a board of directors consisting of not fewer than 5 nor more than 10 members appointed by the Agency.

''(E) BYLAWS.—The board of directors of a limited-life regulated entity shall adopt such bylaws as may be approved by the Agency.

''(3) CAPITAL STOCK.—

''(A) NO AGENCY REQUIREMENT.—The Agency is not required to pay capital stock into a limited-life regulated entity or to issue any capital stock on behalf of a limited-life regulated entity established under this subsection.

''(B) AUTHORITY.—If the Director determines that such action is advisable, the Agency may cause capital stock or other securities of a limited-life regulated entity established with respect to an enterprise to be issued and offered for sale, in such amounts and on such terms and conditions as the Director may determine, in the discretion of the Director.

''(4) INVESTMENTS.—Funds of a limited-life regulated entity shall be kept on hand in cash, invested in obligations of the United States or obligations guaranteed as to principal and interest by the United States, or deposited with the Agency, or any Federal reserve bank.

''(5) EXEMPT TAX STATUS.—Notwithstanding any other provision of Federal or State law, a limited-life regulated entity, its franchise, property, and income shall be exempt from all taxation now or hereafter imposed by the United States, by any territory, dependency, or possession thereof, or by any State, county, municipality, or local taxing authority.

''(6) WINDING UP.—

''(A) IN GENERAL.—Subject to subparagraphs (B) and (C), not later than 2 years after the date of its organization, the Agency shall wind up the affairs of a limited-life regulated entity.

''(B) EXTENSION.—The Director may, in the discretion of the Director, extend the status of a limited-life regulated entity for 3 additional 1-year periods.

''(C) TERMINATION OF STATUS AS LIMITED-LIFE REGULATED ENTITY.—

''(i) IN GENERAL.—Upon the sale by the Agency of 80 percent or more of the capital stock of a limited-life regulated entity, as defined in clause (iv), to 1 or more persons (other than the Agency)—

''(I) the status of the limited-life regulated entity as such shall terminate; and

''(II) the entity shall cease to be a limited-life regulated entity for purposes of this subsection.

''(ii) DIVESTITURE OF REMAINING STOCK, IF ANY.—

''(I) IN GENERAL.—Not later than 1 year after the date on which the status of a limited-life regulated entity is terminated pursuant to clause (i), the Agency shall sell to 1 or more persons (other than the Agency) any remaining capital stock of the former limited-life regulated entity.

''(II) EXTENSION AUTHORIZED.—The Director may extend the period referred to in subclause (I) for not longer than an additional 2 years, if the Director determines that such action would be in the public interest.

''(iii) SAVINGS CLAUSE.—Notwithstanding any provision of law, other than clause (ii), the Agency shall not be required to sell the capital stock of an enterprise or a limited-life regulated entity established with respect to an enterprise.

''(iv) APPLICABILITY.—This subparagraph applies only with respect to a limited-life regulated entity that is established with respect to an enterprise.

''(7) TRANSFER OF ASSETS AND LIABILITIES.—

''(A) IN GENERAL.—

''(i) TRANSFER OF ASSETS AND LIABILITIES.—The Agency, as receiver, may transfer any assets and liabilities of a regulated entity in default, or in danger of default, to the limited-life regulated entity in accordance with and subject to the restrictions of paragraph (1).

''(ii) SUBSEQUENT TRANSFERS.—At any time after the establishment of a limited-life regulated entity, the Agency, as receiver, may transfer any assets and liabilities of the regulated entity in default, or in danger of default, as the Agency may, in its discretion, determine to be appropriate in accordance with and subject to the restrictions of paragraph (1).

''(iii) EFFECTIVE WITHOUT APPROVAL.—The transfer of any assets or liabilities of a regulated entity in default or in danger of default to a limited-life regulated entity shall be effective without any further approval under Federal or State law, assignment, or consent with respect thereto.

''(iv) EQUITABLE TREATMENT OF SIMILARLY SITUATED CREDITORS.—The Agency shall treat all creditors of a regulated entity in default or in danger of default that are similarly situated under subsection (c)(1) in a similar manner in exercising the authority of the Agency under this subsection to transfer any assets or liabilities of the regulated entity to the limited-life regulated entity established with respect to such regulated entity, except that the Agency may take actions (including making payments) that do not comply with this clause, if—

''(I) the Director determines that such actions are necessary to maximize the value of the assets of the regulated entity, to maximize the present value return from the sale or other disposition of the assets of the regulated entity, or to minimize the amount of any loss realized upon the sale or other disposition of the assets of the regulated entity; and

''(II) all creditors that are similarly situated under subsection (c)(1) receive not less than the amount provided in subsection (e)(2).

''(v) LIMITATION ON TRANSFER OF LIABILITIES.—Notwithstanding any other provision of law, the aggregate amount of liabilities of a regulated entity that are transferred to, or assumed by, a limited-life regulated entity may not exceed the aggregate amount of assets of the regulated entity that are transferred to, or purchased by, the limited-life regulated entity.

''(8) REGULATIONS.—The Agency may promulgate such regulations as the Agency determines to be necessary or appropriate to implement this subsection.

''(9) POWERS OF LIMITED-LIFE REGULATED ENTITIES.—

''(A) IN GENERAL.—Each limited-life regulated entity created under this subsection shall have all corporate powers of, and be subject to the same provisions of law as, the regulated entity in default or in danger of default to which it relates, except that—

''(i) the Agency may—

''(I) remove the directors of a limited-life regulated entity;

''(II) fix the compensation of members of the board of directors and senior management, as determined by the Agency in its discretion, of a limited-life regulated entity; and

''(III) indemnify the representatives for purposes of paragraph (1)(B), and the directors, officers, employees, and agents of a limited-life regulated entity on such terms as the Agency determines to be appropriate; and

''(ii) the board of directors of a limited-life regulated entity—

''(I) shall elect a chairperson who may also serve in the position of chief executive officer, except that such person shall not serve either as chairperson or as chief executive officer without the prior approval of the Agency; and

''(II) may appoint a chief executive officer who is not also the chairperson, except that such person shall not serve as chief executive officer without the prior approval of the Agency.

''(B) STAY OF JUDICIAL ACTION.—Any judicial action to which a limited-life regulated entity becomes a party by virtue of its acquisition of any assets or assumption of any liabilities of a regulated entity in default shall be stayed from further proceedings for a period of not longer than 45 days, at the request of the limited-life regulated entity. Such period may be modified upon the consent of all parties.

''(10) NO FEDERAL STATUS.—

''(A) AGENCY STATUS.—A limited-life regulated entity is not an agency, establishment, or instrumentality of the United States.

''(B) EMPLOYEE STATUS.—Representatives for purposes of paragraph (1)(B), interim directors, directors, officers, employees, or agents of a limited-life regulated entity are not, solely by virtue of service in any such capacity, officers or employees of the United States. Any employee of the Agency or of any Federal instrumentality who serves at the request of the Agency as a representative for purposes of paragraph (1)(B), interim director, director, officer, employee, or agent of a limited-life regulated entity shall not—

''(i) solely by virtue of service in any such capacity lose any existing status as an officer or employee of the United States for purposes of title 5, United States Code, or any other provision of law; or

''(ii) receive any salary or benefits for service in any such capacity with respect to a limited-life regulated entity in addition to such salary or benefits as are obtained through employment with the Agency or such Federal instrumentality.

''(11) AUTHORITY TO OBTAIN CREDIT.—

''(A) IN GENERAL.—A limited-life regulated entity may obtain unsecured credit and issue unsecured debt.

''(B) INABILITY TO OBTAIN CREDIT.—If a limited-life regulated entity is unable to obtain unsecured credit or issue unsecured debt, the Director may authorize the obtaining of credit or the issuance of debt by the limited-life regulated entity—

''(i) with priority over any or all of the obligations of the limited-life regulated entity;

''(ii) secured by a lien on property of the limited-life regulated entity that is not otherwise subject to a lien; or

''(iii) secured by a junior lien on property of the limited-life regulated entity that is subject to a lien.

''(C) LIMITATIONS.—

''(i) IN GENERAL.—The Director, after notice and a hearing, may authorize the obtaining of credit or the issuance of debt by a limited-life regulated entity that is secured by a senior or equal lien on property of the limited-life regulated entity that is subject to a lien (other than mortgages that collateralize the mortgage-backed securities issued or guaranteed by an enterprise) only if—

''(I) the limited-life regulated entity is unable to otherwise obtain such credit or issue such debt; and

''(II) there is adequate protection of the interest of the holder of the lien on the property with respect to which such senior or equal lien is proposed to be granted.

''(12) BURDEN OF PROOF.—In any hearing under this subsection, the Director has the burden of proof on the issue of adequate protection.

''(13) AFFECT ON DEBTS AND LIENS.—The reversal or modification on appeal of an authorization under this subsection to obtain credit or issue debt, or of a grant under this

section of a priority or a lien, does not affect the validity of any debt so issued, or any priority or lien so granted, to an entity that extended such credit in good faith, whether or not such entity knew of the pendency of the appeal, unless such authorization and the issuance of such debt, or the granting of such priority or lien, were stayed pending appeal.

''(j) OTHER AGENCY EXEMPTIONS.—

''(1) APPLICABILITY.—The provisions of this subsection shall apply with respect to the Agency in any case in which the Agency is acting as a conservator or a receiver.

''(2) TAXATION.—The Agency, including its franchise, its capital, reserves, and surplus, and its income, shall be exempt from all taxation imposed by any State, county, municipality, or local taxing authority, except that any real property of the Agency shall be subject to State, territorial, county, municipal, or local taxation to the same extent according to its value as other real property is taxed, except that, notwithstanding the failure of any person to challenge an assessment under State law of the value of such property, and the tax thereon, shall be determined as of the period for which such tax is imposed.

''(3) PROPERTY PROTECTION.—No property of the Agency shall be subject to levy, attachment, garnishment, foreclosure, or sale without the consent of the Agency, nor shall any involuntary lien attach to the property of the Agency.

''(4) PENALTIES AND FINES.—The Agency shall not be liable for any amounts in the nature of penalties or fines, including those arising from the failure of any person to pay any real property, personal property, probate, or recording tax or any recording or filing fees when due.

''(k) PROHIBITION OF CHARTER REVOCATION.—In no case may the receiver appointed pursuant to this section revoke, annul, or terminate the charter of an enterprise.''.

(b) TECHNICAL AND CONFORMING AMENDMENTS.—The Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4501 et seq.) is amended—

(1) in section 1368 (12 U.S.C. 4618)—

(A) by striking ''an enterprise'' each place that term appears and inserting ''a regulated entity''; and

(B) by striking ''the enterprise'' each place that term appears and inserting ''the regulated entity'';

(2) in section 1369C (12 U.S.C. 4622), by striking ''enterprise'' each place that term appears and inserting ''regulated entity'';

(3) in section 1369D (12 U.S.C. 4623)—

(A) by striking ''an enterprise'' each place that term appears and inserting ''a regulated entity''; and

(B) in subsection (a)(1), by striking ''An enterprise'' and inserting ''A regulated entity''; and

(4) by striking sections 1369, 1369A, and 1369B (12 U.S.C. 4619, 4620, and 4621).

Subtitle D—Enforcement Actions

SEC. 2151. CEASE-AND-DESIST PROCEEDINGS.

Section 1371 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4631) is amended—

(1) by striking subsections (a) and (b) and inserting the following:

''(a) ISSUANCE FOR UNSAFE OR UNSOUND PRACTICES AND VIOLATIONS.—If, in the opinion of the Director, a regulated entity or any entity-affiliated party is engaging or has engaged, or the Director has reasonable cause to believe that the regulated entity or any entity-affiliated party is about to engage, in an unsafe or unsound practice in conducting the business of the regulated entity or the Finance Facility, or is violating or has violated, or the Director has reasonable cause to believe is about to violate, a law, rule, regulation, or order, or any condition imposed in writing by the Director in connection with the granting of any application or other request by the regulated entity or the Finance Facility or any written agreement entered into with the Director, the Director may issue and serve upon the regulated entity or entity-affiliated party a notice of charges in respect thereof.

''(b) ISSUANCE FOR UNSATISFACTORY RATING.—If a regulated entity receives, in its most recent report of examination, a less-than-satisfactory rating for credit risk, market risk, operations, or corporate governance, the Director may (if the deficiency is not corrected) deem the regulated entity to be engaging in an unsafe or unsound practice for purposes of subsection (a).'';

(2) in subsection (c)—

(A) in paragraph (1), by inserting before the period at the end the following: '', unless the party served with a notice of charges shall appear at the hearing personally or by a duly authorized representative, the party shall be deemed to have consented to the issuance of the cease-and-desist order''; and

(B) in paragraph (2)—

(i) by striking ''or director'' and inserting ''director, or entity-affiliated party''; and

(ii) by inserting ''or entity-affiliated party'' before ''consents'';

(3) in each of subsections (c), (d), and (e)—

(A) by striking ''the enterprise'' each place that term appears and inserting ''the regulated entity'';

(B) by striking ''an enterprise'' each place that term appears and inserting ''a regulated entity''; and

(C) by striking ''conduct'' each place that term appears and inserting ''practice'';

(4) in subsection (d)—

(A) in the matter preceding paragraph (1)—

(i) by striking ''or director'' and inserting ''director, or entity-affiliated party'';

(ii) by inserting ''to require a regulated entity or entity-affiliated party'' after ''includes the authority'';

(B) in paragraph (1)—

(i) by striking ''to require an executive officer or a director to''; and

(ii) by striking ''loss'' and all that follows through ''person'' and inserting ''loss, if'';

(iii) in subparagraph (A), by inserting ''such entity or party or finance facility'' before ''was''; and

(iv) by striking subparagraph (B) and inserting the following:

''(B) the violation or practice involved a reckless disregard for the law or any applicable regulations or prior order of the Director;'';] and

(C) in paragraph (4), by inserting ''loan or'' before ''asset'';

(5) in subsection (e), by inserting ''or entity-affiliated party''—

(A) before ''or any executive''; and

(B) before the period at the end; and

(6) in subsection (f)—

(A) by striking ''enterprise'' and inserting ''regulated entity, finance facility,''; and

(B) by striking ''or director'' and inserting ''director, or entity-affiliated party''.

SEC. 2152. TEMPORARY CEASE-AND-DESIST PROCEEDINGS.

Section 1372 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4632) is amended—

(1) by striking subsection (a) and inserting the following:

''(a) GROUNDS FOR ISSUANCE.—

''(1) IN GENERAL.—If the Director determines that the actions specified in the notice of charges served upon a regulated entity or any entity-affiliated party pursuant to section 1371(a), or the continuation thereof, is likely to cause insolvency or significant dissipation of assets or earnings of that entity, or is likely to weaken the condition of that entity prior to the completion of the proceedings conducted pursuant to sections 1371 and 1373, the Director may—

''(A) issue a temporary order requiring that regulated entity or entity-affiliated party to cease and desist from any such violation or practice; and

''(B) require that regulated entity or entity-affiliated party to take affirmative action to prevent or remedy such insolvency, dissipation, condition, or prejudice pending completion of such proceedings.

''(2) ADDITIONAL REQUIREMENTS.—An order issued under paragraph (1) may include any requirement authorized under subsection 1371(d).'';

(2) in subsection (b)—

(A) by striking ''or director'' and inserting ''director, or entity-affiliated party''; and

(B) by striking ''enterprise'' each place that term appears and inserting ''regulated entity'';

(3) in subsection (c), by striking ''enterprise'' each place that term appears and inserting ''regulated entity'';

(4) in subsection (d)—

(A) by striking ''or director'' each place that term appears and inserting ''director, or entity-affiliated party''; and

(B) by striking ''An enterprise'' and inserting ''A regulated entity''; and

(5) in subsection (e)—

(A) by striking ''request the Attorney General of the United States to''; and

(B) by striking ''or may, under the direction and control of the Attorney General, bring such action''.

SEC. 2153. REMOVAL AND PROHIBITION AUTHORITY.

(a) IN GENERAL.—Part 1 of subtitle C of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4631 et seq.) is amended—

(1) by redesignating sections 1377 through 1379B (12 U.S.C. 4637–4641) as sections 1379 through 1379D, respectively; and

(2) by inserting after section 1376 (12 U.S.C. 4636) the following:

''SEC. 1377. REMOVAL AND PROHIBITION AUTHORITY.

''(a) AUTHORITY TO ISSUE ORDER.—

''(1) IN GENERAL.—The Director may serve upon a party described in paragraph (2), or any officer, director, or management of the Finance Facility a written notice of the intention of the Director to suspend or remove such party from office, or prohibit any further participation by such party, in any manner, in the conduct of the affairs of the regulated entity.

''(2) APPLICABILITY.—A party described in this paragraph is an entity-affiliated party or any officer, director, or management of the Finance Facility, if the Director determines that—

''(A) that party, officer, or director has, directly or indirectly—

''(i) violated—

''(I) any law or regulation;

''(II) any cease-and-desist order which has become final;

''(III) any condition imposed in writing by the Director in connection with the grant of any application or other request by such regulated entity; or

''(IV) any written agreement between such regulated entity and the Director;

''(ii) engaged or participated in any unsafe or unsound practice in connection with any regulated entity or business institution; or

''(iii) committed or engaged in any act, omission, or practice which constitutes a breach of such party's fiduciary duty;

''(B) by reason of the violation, practice, or breach described in subparagraph (A)—

''(i) such regulated entity or business institution has suffered or will probably suffer financial loss or other damage; or

''(ii) such party has received financial gain or other benefit; and

''(C) the violation, practice, or breach described in subparagraph (A)—

''(i) involves personal dishonesty on the part of such party; or

''(ii) demonstrates willful or continuing disregard by such party for the safety or soundness of such regulated entity or business institution.

''(b) SUSPENSION ORDER.—

''(1) SUSPENSION OR PROHIBITION AUTHORITY.—If the Director serves written notice under subsection (a) upon a party subject to that subsection (a), the Director may, by order, suspend or remove such party from office, or prohibit such party from further participation in any manner in the conduct of the affairs of the regulated entity, if the Director—

''(A) determines that such action is necessary for the protection of the regulated entity; and

''(B) serves such party with written notice of the order.

''(2) EFFECTIVE PERIOD.—Any order issued under this subsection—

''(A) shall become effective upon service; and

''(B) unless a court issues a stay of such order under subsection (g), shall remain in effect and enforceable until—

''(i) the date on which the Director dismisses the charges contained in the notice served under subsection (a) with respect to such party; or

''(ii) the effective date of an order issued under subsection (b).

''(3) COPY OF ORDER.—If the Director issues an order under subsection (b) to any party, the Director shall serve a copy of such order on any regulated entity with which such party is affiliated at the time such order is issued.

''(c) NOTICE, HEARING, AND ORDER.—

''(1) NOTICE.—A notice under subsection (a) of the intention of the Director to issue an order under this section shall contain a statement of the facts constituting grounds for such action, and shall fix a time and place at which a hearing will be held on such action.

''(2) TIMING OF HEARING.—A hearing shall be fixed for a date not earlier than 30 days, nor later than 60 days, after the date of service of notice under subsection (a), unless an earlier or a later date is set by the Director at the request of—

''(A) the party receiving such notice, and good cause is shown; or

''(B) the Attorney General of the United States.

''(3) CONSENT.—Unless the party that is the subject of a notice delivered under subsection (a) appears at the hearing in person or by a duly authorized representative, such party shall be deemed to have consented to the issuance of an order under this section.

''(4) ISSUANCE OF ORDER OF SUSPENSION.—The Director may issue an order under this section, as the Director may deem appropriate, if—

''(A) a party is deemed to have consented to the issuance of an order under paragraph (3); or

''(B) upon the record made at the hearing, the Director finds that any of the grounds specified in the notice have been established.

''(5) EFFECTIVENESS OF ORDER.—Any order issued under paragraph (4) shall become effective at the expiration of 30 days after the date of service upon the relevant regulated entity and party (except in the case of an order issued upon consent under paragraph (3), which shall become effective at the time specified therein). Such order shall remain effective and enforceable except to such extent as it is stayed, modified, terminated, or set aside by action of the Director or a reviewing court.

''(d) PROHIBITION OF CERTAIN SPECIFIC ACTIVITIES.—Any person subject to an order issued under this section shall not—

''(1) participate in any manner in the conduct of the affairs of any regulated entity or the Finance Facility;

''(2) solicit, procure, transfer, attempt to transfer, vote, or attempt to vote any proxy, consent, or authorization with respect to any voting rights in any regulated entity;

''(3) violate any voting agreement previously approved by the Director; or

''(4) vote for a director, or serve or act as an entity-affiliated party of a regulated entity or as an officer or director of the Finance Facility.

''(e) INDUSTRY-WIDE PROHIBITION.—

''(1) IN GENERAL.—Except as provided in paragraph (2), any person who, pursuant to an order issued under this section, has been removed or suspended from office in a regulated entity or the Finance Facility, or prohibited from participating in the conduct of the affairs of a regulated entity or the Finance Facility, may not, while such order is in effect, continue or commence to hold any office in, or participate in any manner in the conduct of the affairs of, any regulated entity or the Finance Facility.

''(2) EXCEPTION IF DIRECTOR PROVIDES WRITTEN CONSENT.—If, on or after the date on which an order is issued under this section which removes or suspends from office any party, or prohibits such party from participating in the conduct of the affairs of a regulated entity or the Finance Facility, such party receives the written consent of the Director, the order shall, to the extent of such consent, cease to apply to such party with respect to the regulated entity or such Finance Facility described in the written consent. Any such consent shall be publicly disclosed.

''(3) VIOLATION OF PARAGRAPH (1) TREATED AS VIOLATION OF ORDER.—Any violation of paragraph (1) by any person who is subject to an order issued under subsection (h) shall be treated as a violation of the order.

''(f) APPLICABILITY.—This section shall only apply to a person who is an individual, unless the Director specifically finds that it should apply to a corporation, firm, or other business entity.

''(g) STAY OF SUSPENSION AND PROHIBITION OF ENTITY-AFFILIATED PARTY.—Not later than 10 days after the date on which any entity-affiliated party has been suspended from office or prohibited from participation in the conduct of the affairs of a regulated entity under this section, such party may apply to the United States District Court for the District of Columbia, or the United States district court for the judicial district in which the headquarters of the regulated entity is located, for a stay of such suspension or prohibition pending the completion of the administrative proceedings pursuant to subsection (c). The court shall have jurisdiction to stay such suspension or prohibition.

''(h) SUSPENSION OR REMOVAL OF ENTITY-AFFILIATED PARTY CHARGED WITH FELONY.—

''(1) SUSPENSION OR PROHIBITION.—

''(A) IN GENERAL.—Whenever any entity-affiliated party is charged in any information, indictment, or complaint, with the commission of or participation in a crime involving dishonesty or breach of trust which is punishable by imprisonment for a term exceeding 1 year under Federal or State law, the Director may, if continued service or participation by such party may pose a threat to the regulated entity or impair public confidence in the regulated entity, by written notice served upon such party, suspend such party from office or prohibit such party from further participation in any manner in the conduct of the affairs of any regulated entity.

''(B) PROVISIONS APPLICABLE TO NOTICE.—

''(i) COPY.—A copy of any notice under subparagraph (A) shall be served upon the relevant regulated entity.

''(ii) EFFECTIVE PERIOD.—A suspension or prohibition under subparagraph (A) shall remain in effect until the information, indictment, or complaint referred to in subparagraph (A) is finally disposed of, or until terminated by the Director.

''(2) REMOVAL OR PROHIBITION.—

''(A) IN GENERAL.—If a judgment of conviction or an agreement to enter a pretrial diversion or other similar program is entered against an entity-affiliated party in connection with a crime described in paragraph (1)(A), at such time as such judgment is not subject to further appellate review, the Director may, if continued service or participation by such party may pose a threat to the regulated entity or impair public confidence in the regulated entity, issue and serve upon such party an order removing such party from office or prohibiting such party from further participation in any manner in the conduct of the affairs of the regulated entity without the prior written consent of the Director.

''(B) PROVISIONS APPLICABLE TO ORDER.—

''(i) COPY.—A copy of any order under subparagraph (A) shall be served upon the relevant regulated entity, at which time the entity-affiliated party who is subject to the order (if a director or an officer) shall cease to be a director or officer of such regulated entity.

''(ii) EFFECT OF ACQUITTAL.—A finding of not guilty or other disposition of the charge shall not preclude the Director from instituting proceedings after such finding or disposition to remove a party from office or to prohibit further participation in the affairs of a regulated entity pursuant to subsection (a) or (b).

''(iii) EFFECTIVE PERIOD.—Unless terminated by the Director, any notice of suspension or order of removal issued under this subsection shall remain effective and outstanding until the completion of any hearing or appeal authorized under paragraph (4).

''(3) AUTHORITY OF REMAINING BOARD MEMBERS.—

''(A) IN GENERAL.—If at any time, because of the suspension of 1 or more directors pursuant to this section, there shall be on the board of directors of a regulated entity less than a quorum of directors not so suspended, all powers and functions vested in or exercisable by such board shall vest in and be exercisable by the director or directors on the board not so suspended, until such time as there shall be a quorum of the board of directors.

''(B) APPOINTMENT OF TEMPORARY DIRECTORS.—If all of the directors of a regulated entity are suspended pursuant to this section, the Director shall appoint persons to serve temporarily as directors pending the termination of such suspensions, or until such time as those who have been suspended cease to be directors of the regulated entity and their respective successors take office.

''(4) HEARING REGARDING CONTINUED PARTICIPATION.—

''(A) IN GENERAL.—Not later than 30 days after the date of service of any notice of suspension or order of removal issued pursuant to paragraph (1) or (2), the entity-affiliated party may request in writing an opportunity to appear before the Director to show that the continued service or participation in the conduct of the affairs of the regulated entity by such party does not, or is not likely to, pose a threat to the interests of the regulated entity, or threaten to impair public confidence in the regulated entity.

''(B) TIMING AND FORM OF HEARING.—Upon receipt of a request for a hearing under subparagraph (A), the Director shall fix a time (not later than 30 days after the date of receipt of such request, unless extended at the request of such party) and place at which the entity-affiliated party may appear, personally or through counsel, before the Director or 1 or more designated employees of the Director to submit written materials (or, at the discretion of the Director, oral testimony) and oral argument.

''(C) DETERMINATION.—Not later than 60 days after the date of a hearing under subparagraph (B), the Director shall notify the entity-affiliated party whether the suspension or prohibition from participation in any manner in the conduct of the affairs of the regulated entity will be continued, terminated, or otherwise modified, or whether the order removing such party from office or prohibiting such party from further participation in any manner in the conduct of the affairs of the regulated entity will be rescinded or otherwise modified. Such notification shall contain a statement of the basis for any adverse decision of the Director.

''(5) RULES.—The Director is authorized to prescribe such rules as may be necessary to carry out this subsection.''.

(b) CONFORMING AMENDMENTS.—

(1) SAFETY AND SOUNDNESS ACT.—Subtitle C of title XIII of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (42 U.S.C. 4501 et seq.) is amended—

(A) in section 1317(f), by striking ''section 1379B'' and inserting ''section 1379D'';

(B) in section 1373(a)—

(i) in paragraph (1), by striking ''or 1376(c)'' and inserting '', 1376(c), or 1377'';

(ii) in paragraph (2), by inserting ''or 1377'' after''1371''; and

(iii) in paragraph (4), by inserting ''or removal or prohibition'' after ''cease and desist''; and

(C) in section 1374(a)—

(i) by striking ''or 1376'' and inserting '', 1376, or 1377''; and

(ii) by striking ''such section'' and inserting ''this title''.

(2) FANNIE MAE CHARTER ACT.—Section 308(b) of the Federal National Mortgage Association Charter Act (12 U.S.C. 1723(b)) is amended in the second sentence, by striking ''The'' and inserting ''Except to the extent that action under section 1377 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 temporarily results in a lesser number, the''.

(3) FREDDIE MAC CHARTER ACT.—Section 303(a)(2)(A) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1452(a)(2)(A)) is amended, in the second sentence, by striking ''The'' and inserting ''Except to the extent action under section 1377 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 temporarily results in a lesser number, the''.

SEC. 2154. ENFORCEMENT AND JURISDICTION.

(a) IN GENERAL.—Section 1375 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4635) is amended—

(1) by striking subsection (a) and inserting the following:

''(a) ENFORCEMENT.—The Director may, in the discretion of the Director, apply to the United States District Court for the District of Columbia, or the United States district court within the jurisdiction of which the headquarters of the regulated entity is located, for the enforcement of any effective and outstanding notice, order, or subpoena issued under this title, or request that the Attorney General of the United States bring such an action. Such court shall have jurisdiction and power to order and require compliance with such notice, order, or subpoena.''; and

(2) in subsection (b)—

(A) by striking ''section 1371, 1372, or 1376 or'';

(B) by inserting ''subtitle C, or section 1313A'' after ''subtitle B,''; and

(C) by inserting '', standard,'' after ''notice'' each place that term appears.

(b) CONFORMING AMENDMENT.—Section 1379B of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4641) is amended by striking subsection (c) and redesignating subsection (d) as subsection (c).

SEC. 2155. CIVIL MONEY PENALTIES.

Section 1376 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4636) is amended—

(1) by striking subsection (a) and inserting the following:

''(a) IN GENERAL.—The Director may impose a civil money penalty in accordance with this section on any regulated entity, or any executive offices of a regulated entity or any entity-affiliated party.'';

(2) by striking subsection (b) and inserting the following:

''(b) AMOUNT OF PENALTY.—

''(1) FIRST TIER.—A regulated entity or entity-affiliated party shall forfeit and pay a civil penalty of not more than $10,000 for each day during which a violation continues, if such regulated entity or party—

''(A) violates any provision of this title, the authorizing statutes, or any order, condition, rule, or regulation under this title or any authorizing statute;

''(B) violates any final or temporary order or notice issued pursuant to this title;

''(C) violates any condition imposed in writing by the Director in connection with the grant of any application or other request by such regulated entity;

''(D) violates any written agreement between the regulated entity and the Director; or

''(E) engages in any conduct that the Director determines to be an unsafe or unsound practice.

''(2) SECOND TIER.—Notwithstanding paragraph (1), a regulated entity or entity-affiliated party shall forfeit and pay a civil penalty of not more than $50,000 for each day during which a violation, practice, or breach continues, if—

''(A) the regulated entity or entity-affiliated party, respectively—

''(i) commits any violation described in any subparagraph of paragraph (1);

''(ii) recklessly engages in an unsafe or unsound practice in conducting the affairs of the regulated entity; or

''(iii) breaches any fiduciary duty; and

''(B) the violation, practice, or breach—

''(i) is part of a pattern of misconduct;

''(ii) causes or is likely to cause more than a minimal loss to the regulated entity; or

''(iii) results in pecuniary gain or other benefit to such party.

''(3) THIRD TIER.—Notwithstanding paragraphs (1) and (2), any regulated entity or entity-affiliated party shall forfeit and pay a civil penalty in an amount not to exceed the applicable maximum amount determined under paragraph (4) for each day during which such violation, practice, or breach continues, if such regulated entity or entity-affiliated party—

''(A) knowingly—

''(i) commits any violation described in any subparagraph of paragraph (1);

''(ii) engages in any unsafe or unsound practice in conducting the affairs of the regulated entity; or

''(iii) breaches any fiduciary duty; and

''(B) knowingly or recklessly causes a substantial loss to the regulated entity or a substantial pecuniary gain or other benefit to such party by reason of such violation, practice, or breach.

''(4) MAXIMUM AMOUNTS OF PENALTIES FOR ANY VIOLATION DESCRIBED IN PARAGRAPH (3).—The maximum daily amount of any civil penalty which may be assessed pursuant to paragraph (3) for any violation, practice, or breach described in paragraph (3) is—

''(A) in the case of any entity-affiliated party, an amount not to exceed $2,000,000; and

''(B) in the case of any regulated entity, $2,000,000.'';

(3) in subsection (c)—

(A) by striking ''enterprise'' each place that term appears and inserting ''regulated entity'';

(B) by inserting ''or entity-affiliated party'' before ''in writing''; and

(C) by inserting ''or entity-affiliated party'' before ''has been given'';

(4) in subsection (d)—

(A) by striking ''or director'' each place such term appears and inserting ''director, or entity-affiliated party'';

(B) by striking ''an enterprise'' and inserting ''a regulated entity'';

(C) by striking ''the enterprise'' and inserting ''the regulated entity'';

(D) by striking ''request the Attorney General of the United States to'';

(E) by inserting '', or the United States district court within the jurisdiction of which the headquarters of the regulated entity is located,'' after ''District of Columbia'';

(F) by striking '', or may, under the direction and control of the Attorney General of the United States, bring such an action''; and

(G) by striking ''and section 1374''; and

(5) in subsection (g), by striking ''An enterprise'' and inserting ''A regulated entity''.

SEC. 2156. CRIMINAL PENALTY.

(a) IN GENERAL.—Subtitle C of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4631 et seq.), as amended by this Act, is amended by adding at the end the following:

''SEC. 1378. CRIMINAL PENALTY.

''Whoever, being subject to an order in effect under section 1377, without the prior written approval of the Director, knowingly participates, directly or indirectly, in any manner (including by engaging in an activity specifically prohibited in such an order) in the conduct of the affairs of any regulated entity shall, notwithstanding section 3571 of title 18, be fined not more than $1,000,000, imprisoned for not more than 5 years, or both.''.

(b) TECHNICAL AND CONFORMING AMENDMENTS.—The Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4501 et seq.) is amended—

(1) in section 1379 (as so designated by this Division)—

(A) by striking ''an enterprise'' and inserting ''a regulated entity''; and

(B) by striking ''the enterprise'' and inserting ''the regulated entity'';

(2) in section 1379A (as so designated by this Division), by striking ''an enterprise'' and inserting ''a regulated entity'';

(3) in section 1379B(c) (as so designated by this Division), by striking ''enterprise'' and inserting ''regulated entity''; and

(4) in section 1379D (as so designated by this Division), by striking ''enterprise'' and inserting ''regulated entity''.

SEC. 2157. NOTICE AFTER SEPARATION FROM SERVICE.

Section 1379 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4637), as so designated by this Division, is amended—

(1) by striking ''2-year'' and inserting ''6-year''; and

(2) by inserting ''or an entity-affiliated party'' after ''enterprise'' each place that term appears.

SEC. 2158. SUBPOENA AUTHORITY.

Section 1379B of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4641) is amended—

(1) in subsection (a)—

(A) in the matter preceding paragraph (1)—

(i) by striking ''administrative'';

(ii) by inserting '', examination, or investigation'' after ''proceeding'';

(iii) by striking ''subchapter'' and inserting ''title''; and

(iv) by inserting ''or any designated representative thereof, including any person designated to conduct any hearing under this subtitle'' after ''Director''; and

(B) in paragraph (4), by striking ''issued by the Director'';

(2) in subsection (b), by inserting ''or in any territory or other place subject to the jurisdiction of the United States'' after ''State'';

(3) by striking subsection (c) and inserting the following:

''(c) ENFORCEMENT.—

''(1) IN GENERAL.—The Director, or any party to proceedings under this subtitle, may apply to the United States District Court for the District of Columbia, or the United States district court for the judicial district of the United States in any territory in which such proceeding is being conducted, or where the witness resides or carries on business, for enforcement of any subpoena or subpoena duces tecum issued pursuant to this section.

''(2) POWER OF COURT.—The courts described under paragraph (1) shall have the jurisdiction and power to order and require compliance with any subpoena issued under paragraph (1)'';

(4) in subsection (d), by inserting ''enterprise-affiliated party'' before ''may allow''; and

(5) by adding at the end the following:

''(e) PENALTIES.—A person shall be guilty of a misdemeanor, and upon conviction, shall be subject to a fine of not more than $1,000 or to imprisonment for a term of not more than 1 year, or both, if that person willfully fails or refuses, in disobedience of a subpoena issued under subsection (c), to—

''(1) attend court;

''(2) testify in court;

''(3) answer any lawful inquiry; or

''(4) produce books, papers, correspondence, contracts, agreements, or such other records as requested in the subpoena.''.

Subtitle E—General Provisions

SEC. 2161. CONFORMING AND TECHNICAL AMENDMENTS.

(a) AMENDMENTS TO 1992 ACT.—The Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4501 et seq.), as amended by this Division, is amended—

(1) in section 1315 (12 U.S.C. 4515)—

(A) in subsection (a)—

(i) by striking ''(a) OFFICE PERSONNEL.—The'' and inserting ''(a) IN GENERAL.—Subject to title III of the Federal Housing Enterprise Regulatory Reform Act of 2008, the''; and

(ii) by striking ''the Office'' each place that term appears and inserting ''the Agency'';

(B) in subsection (c), by striking ''the Office'' and inserting ''the Agency'';

(C) in subsection (e), by striking ''the Office'' and inserting ''the Agency'';

(D) by striking subsections (d) and (f); and

(E) by redesignating subsection (e) as subsection (d);

(2) in section 1319A (12 U.S.C. 4520)—

(A) by striking ''(a) IN GENERAL.—''; and

(B) by striking subsection (b);

(3) in section 1364(c) (12 U.S.C. 4614(c)), by striking the last sentence;

(4) by striking section 1383 (12 U.S.C. 1451 note);

(5) in each of sections 1319D, 1319E, and 1319F (12 U.S.C. 4523, 4524, 4525) by striking ''the Office'' each place that term appears and inserting ''the Agency''; and

(6) in each of sections 1319B and 1369(a)(3) (12 U.S.C. 4521, 4619(a)(3)), by striking ''Committee on Banking, Finance and Urban Affairs'' each place that term appears and inserting ''Committee on Financial Services''.

(b) AMENDMENTS TO FANNIE MAE CHARTER ACT.—The Federal National Mortgage Association Charter Act (12 U.S.C. 1716 et seq.) is amended—

(1) in each of sections 303(c)(2) (12 U.S.C. 1718(c)(2)), 309(d)(3)(B) (12 U.S.C. 1723a(d)(3)(B)), and 309(k)(1) (12 U.S.C. 1723a(k)(1)), by striking ''Director of the Office of Federal Housing Enterprise Oversight of the Department of Housing and Urban Development'' each place that term appears, and inserting ''Director of the Federal Housing Enterprise Regulatory Agency'';

(2) in section 309—

(A) in subsection (m) (12 U.S.C. 1723a(m))—

(i) in paragraph (1), by striking ''to the Secretary, in a form determined by the Secretary'' and inserting ''to the Director of the Federal Housing Enterprise Regulatory Agency, in a form determined by the Director''; and

(ii) in paragraph (2), by striking ''to the Secretary, in a form determined by the Secretary'' and inserting ''to the Director of the Federal Housing Enterprise Regulatory Agency, in a form determined by the Director'';

(B) in subsection (n) (12 U.S.C. 1723a(n))—

(i) in paragraph (1), by striking ''and the Secretary'' and inserting ''and the Director of the Federal Housing Enterprise Regulatory Agency''; and

(ii) in paragraph (2), by striking ''Secretary'' each place that term appears and inserting ''Director of the Federal Housing Enterprise Regulatory Agency''; and

(C) in paragraph (3)(B), by striking ''Secretary'' and inserting ''Director of the Federal Housing Enterprise Regulatory Agency'';

(c) AMENDMENTS TO FREDDIE MAC CHARTER ACT.—The Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1451 et seq.) is amended—

(1) in each of sections 303(b)(2) (12 U.S.C. 1452(b)(2)), 303(h)(2) (12 U.S.C. 1452(h)(2)), and section 307(c)(1) (12 U.S.C. 1456(c)(1)), by striking ''Director of the Office of Federal Housing Enterprise Oversight of the Department of Housing and Urban Development'' each place that term appears, and inserting ''Director of the Federal Housing Enterprise Regulatory Agency'';

(2) in section 306 (12 U.S.C. 1455)—

(A) in subsection (c)(2), by inserting ''the'' after ''Secretary of'';

(B) in subsection (i)—

(i) by striking ''section 1316(c)'' and inserting ''section 306(c)''; and

(ii) by striking ''section 106'' and inserting ''section 1316''; and

(C) in subsection (j), by striking ''of substantially'' and inserting ''or substantially''; and

(3) in section 307 (12 U.S.C. 1456)—

(A) in subsection (e)—

(i) in paragraph (1), by striking ''to the Secretary, in a form determined by the Secretary'' and inserting ''to the Director of the Federal Housing Enterprise Regulatory Agency, in a form determined by the Director''; and

(ii) in paragraph (2), by striking ''to the Secretary, in a form determined by the Secretary'' and inserting ''to the Director of the Federal Housing Enterprise Regulatory Agency, in a form determined by the Director''; and

(B) in subsection (f)—

(i) in paragraph (1), by striking ''and the Secretary'' and inserting ''and the Director of the Federal Housing Enterprise Regulatory Agency'';

(ii) in paragraph (2), by striking ''the Secretary'' each place that term appears and inserting ''the Director of the Federal Housing Enterprise Regulatory Agency''; and

(iii) in paragraph (3)(B), by striking ''Secretary'' and inserting ''Director of the Federal Housing Enterprise Regulatory Agency''.

(d) AMENDMENT TO TITLE 18, UNITED STATES CODE.—Section 1905 of title 18, United States Code, is amended by striking ''Office of Federal Housing Enterprise Oversight'' and inserting ''Federal Housing Enterprise Regulatory Agency''.

(e) AMENDMENT TO FLOOD DISASTER PROTECTION ACT OF 1973.—Section 102(f)(3)(A) of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4012a(f)(3)(A)) is amended by striking ''Director of the Office of Federal Housing Enterprise Oversight of the Department of Housing and Urban Development'' and inserting ''Director of the Federal Housing Enterprise Regulatory Agency''.

(f) AMENDMENT TO DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT ACT.—Section 5 of the Department of Housing and Urban Development Act (42 U.S.C. 3534) is amended by striking subsection (d).

(g) AMENDMENT TO TITLE 5, UNITED STATES CODE.—Section 5313 of title 5, United States Code, is amended by striking the item relating to the Director of the Office of Federal Housing Enterprise Oversight, Department of Housing and Urban Development and inserting the following new item:

''Director of the Federal Housing Enterprise Regulatory Agency.''.

(h) AMENDMENT TO SARBANES-OXLEY ACT.—Section 105(b)(5)(B)(ii)(II) of the Sarbanes-Oxley Act of 2002 (15 U.S.C. 7215(b)(5)(B)(ii)(II)) is amended by inserting ''and the Director of the Federal Housing Enterprise Regulatory Agency,'' after ''Commission,''.

(i) AMENDMENT TO FEDERAL DEPOSIT INSURANCE ACT.—Section 11(t)(2)(A) of the Federal Deposit Insurance Act (12 U.S.C. 1821(t)(2)(A)) is amended by adding at the end the following:

''(vii) The Federal Housing Enterprise Regulatory Agency.''.

SEC. 2162. PRESIDENTIALLY APPOINTED DIRECTORS OF ENTERPRISES.

(a) FANNIE MAE.—

(1) IN GENERAL.—Section 308(b) of the Federal National Mortgage Association Charter Act (12 U.S.C. 1723(b)) is amended—

(A) in the first sentence, by striking ''eighteen persons, five of whom shall be appointed annually by the President of the United States, and the remainder of whom'' and inserting ''13 persons, or such other number that the Director determines appropriate, who'';

(B) in the second sentence, by striking ''appointed by the President'';

(C) in the third sentence—

(i) by striking ''appointed or''; and

(ii) by striking '', except that any such appointed member may be removed from office by the President for good cause'';

(D) in the fourth sentence, by striking ''elective''; and

(E) by striking the fifth sentence.

(2) TRANSITIONAL PROVISION.—The amendments made by paragraph (1) shall not apply to any appointed position of the board of directors of the Federal National Mortgage Association until the expiration of the annual

term for such position during which the effective date under section 163 occurs.

(b) FREDDIE MAC.—

(1) IN GENERAL.—Section 303(a)(2) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1452(a)(2)) is amended—

(A) in subparagraph (A)—

(i) in the first sentence, by striking ''13 persons, 5 of whom shall be appointed annually by the President of the United States and the remainder of whom'' and inserting ''13 persons, or such other number as the Director determines appropriate, who''; and

(ii) in the second sentence, by striking ''appointed by the President of the United States'';

(B) in subparagraph (B)—

(i) by striking ''such or''; and

(ii) by striking '', except that any appointed member may be removed from office by the President for good cause''; and

(C) in subparagraph (C)—

(i) by striking the first sentence; and

(ii) by striking ''elective''.

(2) TRANSITIONAL PROVISION.—The amendments made by paragraph (1) shall not apply to any appointed position of the board of directors of the Federal Home Loan Mortgage Corporation until the expiration of the annual term for such position during which the effective date under section 163 occurs.

SEC. 2163. EFFECTIVE DATE.

Except as otherwise specifically provided in this title, this title and the amendments made by this title shall take effect on, and shall apply beginning on, the date of enactment of this Act.

TITLE II—FEDERAL HOME LOAN BANKS

SEC. 2201. DIRECTORS.

Section 7 of the Federal Home Loan Bank Act (12 U.S.C. 1427) is amended—

(1) by striking subsection (a) and inserting the following:

''(a) NUMBER; ELECTION; QUALIFICATIONS; CONFLICTS OF INTEREST.—

''(1) IN GENERAL.—Subject to paragraphs (2) through (4), the management of each Federal Home Loan Bank shall be vested in a board of 13 directors, or such other number as the Director determines appropriate.

''(2) BOARD MAKEUP.—The board of directors of each Bank shall be comprised of—

''(A) member directors, who shall comprise at least the majority of the members of the board of directors; and

''(B) independent directors, who shall comprise not fewer than ⅓ of the members of the board of directors.

''(3) SELECTION CRITERIA.—

''(A) IN GENERAL.—Each member of the board of directors shall be—

''(i) elected by plurality vote of the members, in accordance with procedures established under this section; and

''(ii) a citizen of the United States.

''(B) INDEPENDENT DIRECTOR CRITERIA.—

''(i) PUBLIC INTEREST.—Not fewer than 2 of the independent directors shall be selected from among representatives of organizations having more than a 2-year history of representing consumer or community interests on banking services, credit needs, housing, or financial consumer protections.

''(ii) CONFLICTS OF INTEREST.—No independent director may, during the term of service on the board of directors, serve as an officer of any Federal Home Loan Bank or as a director or officer of any member Bank.

''(4) DEFINITIONS.—For purposes of this section, the following definitions shall apply:

''(A) INDEPENDENT DIRECTOR.—The terms 'independent director' and 'independent directorship' mean a member of the board of directors of a Federal Home Loan Bank who is a bona fide resident of the district in which the Federal Home Loan Bank is located, or the directorship held by such a person, respectively.

''(B) MEMBER DIRECTOR.—The terms 'member director' and 'member directorship' mean a member of the board of directors of a Federal Home Loan Bank who is an officer or director of a member institution that is located in the district in which the Federal Home Loan Bank is located, or the directorship held by such a person, respectively.'';

(2) by striking ''elective'' each place that term appears, other than in subsections (d), (e), and (f), and inserting ''member'';

(3) in subsection (b)—

(A) by striking the subsection heading and all that follows through ''Each elective directorship'' and inserting the following:

''(b) DIRECTORSHIPS.—

''(1) MEMBER DIRECTORSHIPS.—Each member directorship''; and

(B) by adding at the end the following:

''(2) INDEPENDENT DIRECTORSHIPS.—

''(A) ELECTIONS.—Each independent director—

''(i) shall be elected by the members entitled to vote, from among eligible persons nominated by the board of directors of the Bank; and

''(ii) shall be filled by a plurality of the votes of the members of the Bank at large, with each member having the number of votes for each such directorship as it has under subsection (b)(1) in an election to fill member directorships.

''(B) CRITERIA.—Nominees shall meet all applicable requirements prescribed in this section.

''(C) NOMINATION AND ELECTION PROCEDURES.—Procedures for nomination and election of independent directors shall be prescribed by the bylaws of each Federal Home Loan Bank, in a manner consistent with the rules and regulations of the Agency.'';

(4) in subsection (c), by striking the second, third, and fifth sentences;

(5) in subsection (d)—

(A) in the first sentence—

(i) by striking '', whether elected or appointed,''; and

(ii) by striking ''3 years'' and inserting ''4 years'';

(B) in the second sentence—

(i) by striking ''Federal Home Loan Bank System Modernization Act of 1999'' and inserting ''Federal Housing Enterprise Regulatory Reform Act of 2008'';

(ii) by striking ''⅓'' and inserting ''¼''; and

(iii) by striking ''or appointed''; and

(C) in the third sentence—

(i) by striking ''an elective'' each place that term appears and inserting ''a''; and

(ii) by striking ''in any elective directorship or elective directorships'';

(6) in subsection (f)—

(A) by striking paragraph (2);

(B) by striking ''appointed or'' each place that term appears; and

(C) in paragraph (3)—

(i) by striking ''(3) ELECTED BANK DIRECTORS.—'' and inserting ''(2) ELECTION PROCESS.—''; and

(ii) by striking ''elective'' each place that term appears;

(7) in subsection (i)—

(A) in paragraph (1), by striking ''(1) IN GENERAL.—Subject to paragraph (2), each'' and inserting ''Each''; and

(B) by striking paragraph (2); and

(8) by adding at the end the following:

''(l) TRANSITION RULE.—Any member of the board of directors of a Bank elected or appointed in accordance with this section prior to the date of enactment of this subsection may continue to serve as a member of that board of directors for the remainder of the existing term of service.''.

SEC. 2202. DEFINITIONS.

Section 2 of the Federal Home Loan Bank Act (12 U.S.C. 1422) is amended—

(1) by striking paragraphs (1), (10), and (11);

(2) by redesignating paragraphs (2) through (9) as paragraphs (1) through (8), respectively;

(3) by redesignating paragraphs (12) and (13) as paragraphs (9) and (10), respectively; and

(4) by adding at the end the following:

''(11) DIRECTOR.—The term 'Director' means the Director of the Federal Housing Enterprise Regulatory Agency.

''(12) AGENCY.—The term 'Agency' means the Federal Housing Enterprise Regulatory Agency, established under section 1311 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992.

''(13) FINANCE FACILITY.—The term 'Finance Facility' means the Federal Home Loan Bank Finance Facility established under section 11A.''.

SEC. 2203. AGENCY OVERSIGHT OF FEDERAL HOME LOAN BANKS.

The Federal Home Loan Bank Act (12 U.S.C. 1421 et seq.), other than in provisions of that Act added or amended otherwise by this Division, is amended—

(1) by striking sections 2A, 2B, and 20 (12 U.S.C. 1422a, 1422b, 1440);

(2) in section 18 (12 U.S.C. 1438), by striking subsection (b);

(3) in section 11 (12 U.S.C. 1431)—

(A) by striking subsections (b) and (c);

(B) by redesignating subsections (d) through (k) as subsections (c) through (j), respectively;

(C) in subsection (a)—

(i) by striking ''Board'' each place that term appears and inserting ''Director''; and

(ii) by striking ''upon such terms and conditions as the Board may approve''; and

(D) by inserting after subsection (a) the following:

''(b) ISSUANCE OF FEDERAL HOME LOAN BANK BONDS.—The Finance Facility may issue consolidated Federal Home Loan Bank debt, which shall be the joint and several obligations of all of the Federal Home Loan Banks, and shall be issued upon such terms and conditions as set by the Finance Facility for the Federal Home Loan Banks.'';

(4) in section 6 (12 U.S.C. 1426)—

(A) in subsection (b)(1), in the matter preceding subparagraph (A), by striking ''Finance Board approval'' and inserting ''approval by the Director''; and

(B) in each of subsections (c)(4)(B) and (d)(2), by striking ''Finance Board regulations'' each place that term appears and inserting ''regulations of the Director'';

(5) in section 10(b) (12 U.S.C. 1430(b))—

(A) in the subsection heading, by striking ''FORMAL BOARD RESOLUTION'' and inserting ''APPROVAL OF DIRECTOR''; and

(B) by striking ''by formal resolution'';

(6) in section 21(b)(5) (12 U.S.C. 1441(b)(5)), by striking ''Chairperson of the Federal Housing Finance Board'' and inserting ''Director'';

(7) in section 15 (12 U.S.C. 1435), by striking ''issued with the approval of the Board'' and inserting ''issued under section 11(b)'';

(8) by striking ''the Board'' each place that term appears and inserting ''the Director'';

(9) by striking ''The Board'' each place that term appears and inserting ''The Director'';

(10) by striking ''the Finance Board'' each place that term appears and inserting ''the Director'';

(11) by striking ''The Finance Board'' each place that term appears and inserting ''The Director''; and

(12) by striking ''Federal Housing Finance Board'' each place that term appears and inserting ''Director''.

SEC. 2204. FEDERAL HOME LOAN BANK FINANCE FACILITY.

The Federal Home Loan Bank Act (12 U.S.C. 1421 et seq.) is amended by inserting after section 11 the following:

"SEC. 11A. FEDERAL HOME LOAN BANK FINANCE FACILITY.

''(a) ESTABLISHMENT.—

''(1) IN GENERAL.—The Federal Home Loan Banks shall establish a Federal Home Loan Bank Finance Facility.

''(2) PURPOSES.—The purposes of the Finance Facility are—

''(A) to issue and service the consolidated obligations of the Federal Home Loan Banks in accordance with this Act; and

''(B) to perform all other necessary and proper functions in relation to the issuance and service of such obligations, as fiscal agent on behalf of the Federal Home Loan Banks, and any other functions performed by the Office of Finance on behalf of the Financing Corporation (established under section 21) and the Resolution Funding Corporation (established under section 21B).

''(3) TRANSFER OF FUNCTIONS.—

''(A) IN GENERAL.—The functions of the Office of Finance of the Federal Home Loan Banks shall be transferred to the Finance Facility on the effective time.

''(B) ORGANIZATIONAL MEETING.—The organizational meeting of the management board of the Finance Facility shall occur as soon as practicable after the date of enactment of the Federal Housing Enterprise Regulatory Reform Act of 2008.

''(C) INTERIM PROCEDURES.—Until the effective time, the predecessor office shall continue to operate as if this section had not been enacted.

''(D) REFERENCES.—After the effective time, any reference under any provision of Federal law to the Office of Finance and the Managing Director of the Office of Finance shall be deemed to be references to the Finance Facility and the chief executive officer of the Finance Facility, respectively.

''(4) SUCCESSION.—

''(A) ASSETS AND LIABILITIES.—On and after the effective time, the Finance Facility shall, by operation of law and without any further action by the Federal Housing Finance Board, the Director, the predecessor office, or any court, succeed to the assets of, and assume all debts, obligations, contracts, and other liabilities of the predecessor office, matured or unmatured, accrued or absolute, contingent or otherwise, and whether or not reflected or reserved against on balance sheets, books of account, or records of the predecessor office.

''(B) CONTRACTS.—On and after the effective time, the existing contractual obligations of the Federal Housing Finance Board, solely in its capacity as issuer of consolidated obligations of the Federal Home Loan Banks and the predecessor office shall, by operation of law and without any further action by the Federal Housing Finance Board, the Director, the predecessor office, or any court, become obligations, entitlements, and instruments of the Finance Facility.

''(C) TAXATION.—The succession to assets, assumption of liabilities, conversion of obligations and instruments, and effectuation of any other transaction by the Finance Facility to carry out this subsection shall not be treated as a taxable event under the laws of any State, or any political subdivision thereof.

''(b) POWERS.—Subject to the provisions of this Act, and such regulations as the Director may prescribe, the Finance Facility shall have the power—

''(1) to issue and service Federal Home Loan Bank consolidated notes, consolidated bonds, consolidated debentures, and other consolidated obligations authorized under section 11, as agent for the Federal Home Loan Banks;

''(2) to determine the amount, maturities, rate of interest, terms, and other conditions of Federal Home Loan Bank consolidated obligations;

''(3) to make contracts;

''(4) to determine the terms and conditions under which the Finance Facility may indemnify the members of the management board, as well as officers, employees, and agents of the Finance Facility;

''(5) to determine and implement the methodology for assessments of the Federal Home Loan Banks to fund all of the expenses of the Finance Facility; and

''(6) to exercise such incidental powers not inconsistent with the provisions of this Act as are necessary or advisable to carry out the purposes of the Finance Facility.

''(c) MANAGEMENT OF THE FINANCE FACILITY.—

''(1) ESTABLISHMENT.—The management of the Finance Facility shall be vested in a management board composed of the president of each of the Federal Home Loan Banks, ex officio.

''(2) DUTIES.—The management board of the Finance Facility shall administer the affairs of the Finance Facility in accordance with the provisions of this section.

''(3) INTERIM APPOINTMENTS.—If the office of the president of any Federal Home Loan Bank is vacant, the person serving in such capacity on an acting basis shall serve on the management board of the Finance Facility until replaced by the next person to fill the office of the president of that Federal Home Loan Bank.

''(4) POWERS.—The management board of the Finance Facility shall exercise such powers as may be necessary or advisable to carry out this section, including the power to—

''(A) set policies for the management and operation of the Finance Facility;

''(B) approve a strategic business plan for the Finance Facility;

''(C) review, adopt, and monitor annual operation and capital budgets of the Finance Facility;

''(D) constitute and perform the duties of an audit committee, which to the extent possible shall operate consistent with—

''(i) the requirements established for the Federal Home Loan Banks; and

''(ii) the requirements pertaining to audit committee reports set forth in the rules of the Securities and Exchange Commission;

''(E) select, employ, determine the compensation for, and assign the duties and functions of the President of the Finance Facility, who shall—

''(i) be the chief executive officer for the Finance Facility and shall direct the implementation of the policies adopted by the management board of the Finance Facility;

''(ii) serve as a member of the Directorate of the Financing Corporation, under section 21(b)(1)(A); and

''(iii) serve as a member of the Directorate of the Resolution Funding Corporation under section 21B(c)(1)(A);

''(F) provide for the review and approval of all contracts of the Finance Facility;

''(G) have the exclusive authority to employ and contract for the services of an independent, external auditor for the annual and quarterly combined financial statements of the Federal Home Loan Banks; and

''(H) select, evaluate, determine the compensation of, and, as appropriate, replace the internal auditor of the Finance Facility, who may be removed only by vote of the management board of the Finance Facility.

''(5) PAY.—The members of the management board of the Finance Facility shall not receive compensation for their services as members of the management board.

''(6) QUORUM REQUIREMENT.—

''(A) IN GENERAL.—No business of the Finance Facility may be conducted by the management board unless a quorum of the members of the management board is present in person or by telephone, or through action taken by written consent executed by all of the members of the management board.

''(B) NUMBER.—A quorum shall be a majority of the members of the management board.

''(C) VOTE REQUIRED.—Action taken by the management board shall be approved by a majority of the members in attendance at any meeting at which a quorum is present, unless the management board adopts procedures requiring a greater voting requirement.

''(7) APPOINTMENT OF OFFICERS AND ADOPTION OF RULES OF PROCEDURE.—The management board of the Finance Facility shall—

''(A) select, from among the members of such board, a Chairperson and a Vice Chairperson; and

''(B) adopt bylaws and other rules of procedure for actions before the management board, including—

''(i) the establishment of 1 or more committees to take action on behalf of the management board; and

''(ii) the delegation of powers of the management board to any committee or officer of the Finance Facility.

''(d) STATUS.—Except to the extent expressly provided in this Act, or in rules or regulations promulgated by the Director, or unless the context clearly indicates otherwise, the Finance Facility shall be accorded the same status as a Federal Home Loan Bank for purposes of any other provision of law (including section 13), other than section 1369F of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992.

''(e) DEFINITIONS.—As used in this section—

''(1) the term 'effective time' means the conclusion of the organizational meeting of the management board of the Finance Facility;

''(2) the term 'Finance Facility' includes a corporation, partnership, limited liability company, or joint venture that is jointly owned by the Federal Home Loan Banks;

''(3) the term 'management board' means the management board of the Finance Facility established in accordance with subsection (c); and

''(4) the term 'predecessor office' means the Office of Finance established as a joint office of the Federal Home Loan Banks.''.

SEC. 2205. EXCLUSION FROM CERTAIN SECURITIES REPORTING REQUIREMENTS.

(a) IN GENERAL.—The Federal Home Loan Banks shall be exempt from compliance with—

(1) sections 13(e), 14(a), 14(c), and 17A of the Securities Exchange Act of 1934, and related Commission regulations; and

(2) section 15 of the Securities Exchange Act of 1934, and related Commission regulations, with respect to transactions in the capital stock of a Federal Home Loan Bank.

(b) MEMBER EXEMPTION.—The members of the Federal Home Loan Bank System shall be exempt from compliance with sections 13(d), 13(f), 13(g), 14(d), and 16 of the Securities Exchange Act of 1934, and related Commission regulations, with respect to ownership of or transactions in the capital stock of the Federal Home Loan Banks by such members.

(c) EXEMPTED AND GOVERNMENT SECURITIES.—

(1) CAPITAL STOCK.—The capital stock issued by each of the Federal Home Loan Banks under section 6 of the Federal Home Loan Bank Act are—

(A) exempted securities, within the meaning of section 3(a)(2) of the Securities Act of 1933; and

(B) exempted securities, within the meaning of section 3(a)(12)(A) of the Securities Exchange Act of 1934.

(2) OTHER OBLIGATIONS.—The debentures, bonds, and other obligations issued under section 11 of the Federal Home Loan Bank Act (12 U.S.C. 1431) are—

(A) exempted securities, within the meaning of section 3(a)(2) of the Securities Act of 1933;

(B) government securities, within the meaning of section 3(a)(42) of the Securities Exchange Act of 1934; and

(C) government securities, within the meaning of section 2(a)(16) of the Investment Company Act of 1940.

(3) BROKERS AND DEALERS.—A person that effects transactions in the capital stock or other obligations of a Federal Home Loan Bank, for the account of others or for his own account, as applicable, is excluded from the definition of—

(A) the term ''government securities broker'' under section 3(a)(43) of the Securities Exchange Act of 1934; and

(B) the term ''government securities dealer'' under section 3(a)(44) of the Securities Exchange Act of 1934.

(d) EXEMPTION FROM REPORTING REQUIREMENTS.—The Federal Home Loan Banks shall be exempt from periodic reporting requirements under the securities laws pertaining to the disclosure of—

(1) related party transactions that occur in the ordinary course of the business of the Banks with members; and

(2) the unregistered sales of equity securities.

(e) TENDER OFFERS.—Commission rules relating to tender offers shall not apply in connection with transactions in the capital stock of the Federal Home Loan Banks.

(f) REGULATIONS.—

(1) FINAL RULES.—Not later than 1 year after the date of enactment of this Act, the Commission shall issue final rules to implement this section and the exemptions provided in this section.

(2) CONSIDERATIONS.—In issuing final regulations under this section, the Commission shall consider the distinctive characteristics of the Federal Home Loan Banks when evaluating—

(A) the accounting treatment with respect to the payment to the Resolution Funding Corporation;

(B) the role of the combined financial statements of the Federal Home Loan Banks;

(C) the accounting classification of redeemable capital stock; and

(D) the accounting treatment related to the joint and several nature of the obligations of the Banks.

(g) DEFINITIONS.—As used in this section—

(1) the terms ''Bank'', ''Federal Home Loan Bank'', ''member'', and ''Federal Home Loan Bank System'' have the same meanings as in section 2 of the Federal Home Loan Bank Act (12 U.S.C. 1422);

(2) the term ''Commission'' means the Securities and Exchange Commission; and

(3) the term ''securities laws'' has the same meaning as in section 3(a)(47) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(47)).

SEC. 2206. MERGERS.

Section 26 of the Federal Home Loan Bank Act (12 U.S.C. 1446) is amended—

(1) by striking ''Whenever'' and inserting ''(a) **IN GENERAL**.—Whenever''; and

(2) by adding at the end the following:

''(b) MERGERS AUTHORIZED.—

''(1) IN GENERAL.—Any Federal Home Loan Bank may, with the approval of the Director and of the boards of directors of the Banks involved, merge with another Bank.

''(2) REGULATIONS REQUIRED.—The Director shall promulgate regulations establishing the conditions and procedures for the consideration and approval of any voluntary merger described in paragraph (1).''.

SEC. 2207. AUTHORITY TO REDUCE DISTRICTS.

Section 3 of the Federal Home Loan Bank Act (12 U.S.C. 1423) is amended—

(1) by striking ''As soon'' and inserting ''(a) **IN GENERAL**.—As soon''; and

(2) by adding at the end the following:

''(b) AUTHORITY TO REDUCE DISTRICTS.—Notwithstanding subsection (a), the number of districts may be reduced to a number less than 8—

''(1) pursuant to a voluntary merger between Banks, as approved pursuant to section 26(b); or

''(2) pursuant to a decision by the Director to liquidate a bank pursuant to section 1367 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992.''.

SEC. 2208. MANAGEMENT OF HOME LOAN BANKS.

(a) BOARD OF DIRECTORS.—Section 7(a)(1) of the Federal Home Loan Bank Act (12 U.S.C. 1427(a)(1)) is amended to read as follows:

''(1) IN GENERAL.—Subject to paragraphs (2) through (4), and except to the extent that action under section 1377 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 results in a lesser number, the management of each Federal home loan bank shall be vested in a board of 13 directors, or such other number as the board of directors of each Federal home loan bank determines appropriate.''.

(b) APPORTIONMENT AMONG STATES; DESIGNATION OF STATE LOCATION.—Section 7(c) of the Federal Home Loan Bank Act (12 U.S.C. 1427(c)) is amended to read s follows:

''(c) APPORTIONMENT AMONG STATES; DESIGNATION OF STATE LOCATION.—The number of elective directorships designated as representing the members located in each separate State in a bank district shall be determined by the Director, in the approximate ratio of the percentage of the required stock, as determined pursuant to regulation of the Director, of the members located in the State at the end of the calendar year next preceding the date of the election to the total required stock, as so determined, of all members of such bank at the end of such year, except that in the case of each State, such number shall not be less than 1 or 2, as determined by the board of directors of each Federal home loan bank, and shall be not more than 6.''.

TITLE III—TRANSFER OF FUNCTIONS, PERSONNEL, AND PROPERTY OF OFHEO AND THE FEDERAL HOUSING FINANCE BOARD

Subtitle A—OFHEO

SEC. 2301. ABOLISHMENT OF OFHEO.

(a) IN GENERAL.—Effective at the end of the 1-year period beginning on the date of enactment of this Act, the Office of Federal Housing Enterprise Oversight of the Department of Housing and Urban Development and the positions of the Director and Deputy Director of such Office are abolished.

(b) DISPOSITION OF AFFAIRS.—During the 1-year period beginning on the date of enactment of this Act, the Director of the Office of Federal Housing Enterprise Oversight, solely for the purpose of winding up the affairs of the Office of Federal Housing Enterprise Oversight—

(1) shall manage the employees of such Office and provide for the payment of the compensation and benefits of any such employee which accrue before the effective date of the transfer of such employee under section 2303; and

(2) may take any other action necessary for the purpose of winding up the affairs of the Office.

(c) STATUS OF EMPLOYEES BEFORE TRANSFER.—The amendments made by title I and the abolishment of the Office of Federal Housing Enterprise Oversight under subsection (a) of this section may not be construed to affect the status of any employee of such Office as an employee of an agency of the United States for purposes of any other provision of law before the effective date of the transfer of any such employee under section 2303.

(d) USE OF PROPERTY AND SERVICES.—

(1) PROPERTY.—The Director may use the property of the Office of Federal Housing Enterprise Oversight to perform functions which have been transferred to the Director for such time as is reasonable to facilitate the orderly transfer of functions transferred under any other provision of this Act or any amendment made by this Division to any other provision of law.

(2) AGENCY SERVICES.—Any agency, department, or other instrumentality of the United States, and any successor to any such agency, department, or instrumentality, which was providing supporting services to the Office of Federal Housing Enterprise Oversight before the expiration of the period under subsection (a) in connection with functions that are transferred to the Director shall—

(A) continue to provide such services, on a reimbursable basis, until the transfer of such functions is complete; and

(B) consult with any such agency to coordinate and facilitate a prompt and reasonable transition.

(e) SAVINGS PROVISIONS.—

(1) EXISTING RIGHTS, DUTIES, AND OBLIGATIONS NOT AFFECTED.—Subsection (a) shall not affect the validity of any right, duty, or obligation of the United States, the Director of the Office of Federal Housing Enterprise Oversight, or any other person, which—

(A) arises under—

(i) the Federal Housing Enterprises Financial Safety and Soundness Act of 1992;

(ii) the Federal National Mortgage Association Charter Act;

(iii) the Federal Home Loan Mortgage Corporation Act;

(iv) or any other provision of law applicable with respect to such Office; and

(B) existed on the day before the date of abolishment under subsection (a).

(2) CONTINUATION OF SUITS.—No action or other proceeding commenced by or against the Director of the Office of Federal Housing Enterprise Oversight in connection with functions that are transferred to the Director of the Federal Housing Enterprise Regulatory Agency shall abate by reason of the enactment of this Act, except that the Director of the Federal Housing Enterprise Regulatory Agency shall be substituted for the Director of the Office of Federal Housing Enterprise Oversight as a party to any such action or proceeding.

SEC. 2302. CONTINUATION AND COORDINATION OF CERTAIN REGULATIONS.

(a) IN GENERAL.—All regulations, orders, and determinations described in subsection (b) shall remain in effect according to the terms of such regulations, orders, and determinations, and shall be enforceable by or against the Director or the Secretary of Housing and Urban Development, as the case may be, until modified, terminated, set aside, or superseded in accordance with applicable law by the Director or the Secretary, as the case may be, any court of competent jurisdiction, or operation of law.

(b) APPLICABILITY.—A regulation, order, or determination is described in this subsection if it—

(1) was issued, made, prescribed, or allowed to become effective by—

(A) the Office of Federal Housing Enterprise Oversight;

(B) the Secretary of Housing and Urban Development, and relates to the authority of the Secretary under—

(i) the Federal Housing Enterprises Financial Safety and Soundness Act of 1992;

(ii) the Federal National Mortgage Association Charter Act, with respect to the Federal National Mortgage Association; or

(iii) the Federal Home Loan Mortgage Corporation Act, with respect to the Federal Home Loan Mortgage Corporation; or

(C) a court of competent jurisdiction, and relates to functions transferred by this Division; and

(2) is in effect on the effective date of the abolishment under section 2301(a).

SEC. 2303. TRANSFER AND RIGHTS OF EMPLOYEES OF OFHEO.

(a) TRANSFER.—Each employee of the Office of Federal Housing Enterprise Oversight shall be transferred to the Agency for employment, not later than the effective date of the abolishment under section 2301(a), and such transfer shall be deemed a transfer of function for purposes of section 3503 of title 5, United States Code.

(b) GUARANTEED POSITIONS.—

(1) IN GENERAL.—Each employee transferred under subsection (a) shall be guaranteed a position with the same status, tenure, grade, and pay as that held on the day immediately preceding the transfer.

(2) NO INVOLUNTARY SEPARATION OR REDUCTION.—An employee transferred under subsection (a) holding a permanent position on the day immediately preceding the transfer may not be involuntarily separated or reduced in grade or compensation during the 12-month period beginning on the date of transfer, except for cause, or, in the case of a temporary employee, separated in accordance with the terms of the appointment of the employee.

(c) APPOINTMENT AUTHORITY FOR EXCEPTED AND SENIOR EXECUTIVE SERVICE EMPLOYEES.—

(1) IN GENERAL.—In the case of an employee occupying a position in the excepted service or the Senior Executive Service, any appointment authority established under law or by regulations of the Office of Personnel Management for filling such position shall be transferred, subject to paragraph (2).

(2) DECLINE OF TRANSFER.—The Director may decline a transfer of authority under paragraph (1) to the extent that such authority relates to—

(A) a position excepted from the competitive service because of its confidential, policymaking, policy-determining, or policy-advocating character; or

(B) a noncareer position in the Senior Executive Service (within the meaning of section 3132(a)(7) of title 5, United States Code).

(d) REORGANIZATION.—If the Director determines, after the end of the 1-year period beginning on the effective date of the abolishment under section 2301(a), that a reorganization of the combined workforce is required, that reorganization shall be deemed a major reorganization for purposes of affording affected employee retirement under section 8336(d)(2) or 8414(b)(1)(B) of title 5, United States Code.

(e) EMPLOYEE BENEFIT PROGRAMS.—

(1) IN GENERAL.—Any employee of the Office of Federal Housing Enterprise Oversight accepting employment with the Agency as a result of a transfer under subsection (a) may retain for 12 months after the date on which such transfer occurs membership in any employee benefit program of the Agency or the Office of Federal Housing Enterprise Oversight of the Department of Housing and Urban Development, as applicable, including insurance, to which such employee belongs on the date of the abolishment under section 2301(a), if—

(A) the employee does not elect to give up the benefit or membership in the program; and

(B) the benefit or program is continued by the Director of the Federal Housing Enterprise Regulatory Agency.

(2) COST DIFFERENTIAL.—

(A) IN GENERAL.—The difference in the costs between the benefits which would have been provided by the Office of Federal Housing Enterprise Oversight and those provided by this section shall be paid by the Director.

(B) HEALTH INSURANCE.—If any employee elects to give up membership in a health insurance program or the health insurance program is not continued by the Director, the employee shall be permitted to select an alternate Federal health insurance program not later than 30 days after the date of such election or notice, without regard to any other regularly scheduled open season.

SEC. 2304. TRANSFER OF PROPERTY AND FACILITIES.

Upon the effective date of its abolishment under section 2301(a), all property of the Office of Federal Housing Enterprise Oversight shall transfer to the Agency.

Subtitle B—Federal Housing Finance Board

SEC. 2311. ABOLISHMENT OF THE FEDERAL HOUSING FINANCE BOARD.

(a) IN GENERAL.—Effective at the end of the 1-year period beginning on the date of enactment of this Act, the Federal Housing Finance Board (in this subtitle referred to as the ''Board'') is abolished.

(b) DISPOSITION OF AFFAIRS.—During the 1-year period beginning on the date of enactment of this Act, the Board, solely for the purpose of winding up the affairs of the Board—

(1) shall manage the employees of the Board and provide for the payment of the compensation and benefits of any such employee which accrue before the effective date of the transfer of such employee under section 2313; and

(2) may take any other action necessary for the purpose of winding up the affairs of the Board.

(c) STATUS OF EMPLOYEES BEFORE TRANSFER.—The amendments made by titles I and II and the abolishment of the Board under subsection (a) may not be construed to affect the status of any employee of the Board as an employee of an agency of the United States for purposes of any other provision of law before the effective date of the transfer of any such employee under section 2313.

(d) USE OF PROPERTY AND SERVICES.—

(1) PROPERTY.—The Director may use the property of the Board to perform functions which have been transferred to the Director, for such time as is reasonable to facilitate the orderly transfer of functions transferred under any other provision of this Division or any amendment made by this Division to any other provision of law.

(2) AGENCY SERVICES.—Any agency, department, or other instrumentality of the United States, and any successor to any such agency, department, or instrumentality, which was providing supporting services to the Board before the expiration of the 1-year period under subsection (a) in connection with functions that are transferred to the Director shall—

(A) continue to provide such services, on a reimbursable basis, until the transfer of such functions is complete; and

(B) consult with any such agency to coordinate and facilitate a prompt and reasonable transition.

(e) SAVINGS PROVISIONS.—

(1) EXISTING RIGHTS, DUTIES, AND OBLIGATIONS NOT AFFECTED.—Subsection (a) shall not affect the validity of any right, duty, or obligation of the United States, a member of the Board, or any other person, which—

(A) arises under the Federal Home Loan Bank Act, or any other provision of law applicable with respect to the Board; and

(B) existed on the day before the effective date of the abolishment under subsection (a).

(2) CONTINUATION OF SUITS.—No action or other proceeding commenced by or against the Board in connection with functions that are transferred under this Division to the Director shall abate by reason of the enactment of this Act, except that the Director shall be substituted for the Board or any member thereof as a party to any such action or proceeding.

SEC. 2312. CONTINUATION AND COORDINATION OF CERTAIN REGULATIONS.

(a) IN GENERAL.—All regulations, orders, and determinations described under subsection (b) shall remain in effect according to the terms of such regulations, orders, and determinations, and shall be enforceable by or against the Director until modified, terminated, set aside, or superseded in accordance with applicable law by the Director, any court of competent jurisdiction, or operation of law.

(b) APPLICABILITY.—A regulation, order, or determination is described under this subsection if it—

(1) was issued, made, prescribed, or allowed to become effective by—

(A) the Board; or

(B) a court of competent jurisdiction, and relates to functions transferred by this title; and

(2) is in effect on the effective date of the abolishment under section 2311(a).

SEC. 2313. TRANSFER AND RIGHTS OF EMPLOYEES OF THE FEDERAL HOUSING FINANCE BOARD.

(a) TRANSFER.—Each employee of the Board shall be transferred to the Agency for employment, not later than the effective date of the abolishment under section 2311(a), and such transfer shall be deemed a transfer of function for purposes of section 3503 of title 5, United States Code.

(b) GUARANTEED POSITIONS.—

(1) IN GENERAL.—Each employee transferred under subsection (a) shall be guaranteed a position with the same status, tenure, grade, and pay as that held on the day immediately preceding the transfer.

(2) NO INVOLUNTARY SEPARATION OR REDUCTION.—An employee holding a permanent position on the day immediately preceding the transfer may not be involuntarily separated or reduced in grade or compensation during the 12-month period beginning on the date of transfer, except for cause, or, if the employee is a temporary employee, separated in accordance with the terms of the appointment of the employee.

(c) APPOINTMENT AUTHORITY FOR EXCEPTED AND SENIOR EXECUTIVE SERVICE EMPLOYEES.—

(1) IN GENERAL.—In the case of an employee occupying a position in the excepted service or the Senior Executive Service, any appointment authority established under law or by regulations of the Office of Personnel Management for filling such position shall be transferred, subject to paragraph (2).

(2) DECLINE OF TRANSFER.—The Director may decline a transfer of authority under paragraph (1) to the extent that such authority relates to—

(A) a position excepted from the competitive service because of its confidential, policymaking, policy-determining, or policy-advocating character; or

(B) a noncareer position in the Senior Executive Service (within the meaning of section 3132(a)(7) of title 5, United States Code).

(d) REORGANIZATION.—If the Director determines, after the end of the 1-year period beginning on the effective date of the abolishment under section 2311(a), that a reorganization of the combined workforce is required, that reorganization shall be deemed a major reorganization for purposes of affording affected employee retirement under section 8336(d)(2) or 8414(b)(1)(B) of title 5, United States Code.

(e) EMPLOYEE BENEFIT PROGRAMS.—

(1) IN GENERAL.—Any employee of the Board accepting employment with the Agency as a result of a transfer under subsection (a) may retain for 12 months after the date on which such transfer occurs membership in any employee benefit program of the Agency or the Board, as applicable, including insurance, to which such employee belongs on the effective date of the abolishment under section 2311(a) if—

(A) the employee does not elect to give up the benefit or membership in the program; and

(B) the benefit or program is continued by the Director.

(2) COST DIFFERENTIAL.—

(A) IN GENERAL.—The difference in the costs between the benefits which would have been provided by the Board and those provided by this section shall be paid by the Director.

(B) HEALTH INSURANCE.—If any employee elects to give up membership in a health insurance program or the health insurance program is not continued by the Director, the employee shall be permitted to select an alternate Federal health insurance program not later than 30 days after the date of such election or notice, without regard to any other regularly scheduled open season.

SEC. 2314. TRANSFER OF PROPERTY AND FACILITIES.

Upon the effective date of the abolishment under section 2311(a), all property of the Board shall transfer to the Agency.

TITLE IV—STUDIES AND REPORTS

SEC. 2401. STUDY AND REPORT ON BASEL II AND ENTERPRISE DEBT.

(a) STUDY.—The Board of Governors of the Federal Reserve System shall conduct a study on the effects on the regulated entities of the new Basel Capital Accord (Basel II), as endorsed by the Group of Ten countries in ''The International Convergence of Capital Measurement and Capital Standards: a Revised Framework''. The study shall examine the debt of the regulated entities and the capital classification on financial institutions that hold such debt.

(b) REPORT.—The Chairman of the Board of Governors of the Federal Reserve System shall submit a report to Congress on the results of the study required by this section not later than 2 years after the date of enactment of this Act.

SEC. 2402. AFFORDABLE HOUSING AUDITS.

The Inspector General of the Agency shall conduct an annual audit of the affordable housing activities, programs, and partnerships of the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation, to ensure that such activities, programs, and partnerships support the affordable housing missions of those enterprises.

SEC. 2403. REPORT ON INSURED DEPOSITORY INSTITUTION HOLDINGS OF REGULATED ENTITY DEBT AND MORTGAGE-BACKED SECURITIES.

Not later than 2 years after the date of enactment of this Act, the Director, the Secretary of the Treasury, the Board of Governors of the Federal Reserve System, the Board of Directors of the Federal Deposit Insurance Corporation, and the National Credit Union Administration Board shall jointly submit a report to Congress regarding—

(1) the extent to which obligations issued or guaranteed by the regulated entities (including mortgage-backed securities) are held by federally insured depository institutions, including such extent by type of institution and such extent relative to the capital of the institution;

(2) the extent to which the unlimited holdings by federally insured depository institutions of the obligations of the regulated entities could produce systemic risk issues, particularly for the safety and soundness of the banking system in the United States, in the event of default or failure by a regulated entity;

(3) the effects on the regulated entities, the banking industry, and mortgage markets, if prudent limits on the holdings of the obligations of a regulated entity were placed on federally insured depository institutions; and

(4) the extent to which alternative investments are available to community depository institutions, and the impact that such alternative investments would have on the safety and soundness and capital levels of such community depository institutions.

SEC. 2404. REPORT ON RISK-BASED CAPITAL LEVELS.

(a) IN GENERAL.—The Director shall submit a report to Congress at the end of each fiscal quarter regarding—

(1) the risk-based capital levels for the regulated entities under section 1361 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992, as amended by this Division, including a description of the risk-based capital test under that section 1361 and any assumptions of the Director and factors used by the Director in establishing the test; and

(2) the minimum and critical capital levels for the regulated entities pursuant to sections 1362 and 1363, respectively, of that Act, as so amended.

(b) TIMING.—Each report under this section shall be submitted not later than 60 days after the end of each fiscal quarter.

SEC. 2405. REPORT ON RESOURCES AND ALLOCATIONS.

The Comptroller General of the United States shall submit a report to Congress annually, on a fiscal year basis, regarding—

(1) the allocation of resources of the Agency by the Director; and

(2) the level of assessments collected by the Director for the operation of the Agency.

SEC. 2406. STUDY AND REPORT ON GUARANTEE FEES.

(a) ONGOING STUDY OF FEES.—The Director shall conduct an ongoing study of fees charged by enterprises for guaranteeing a mortgage.

(b) COLLECTION OF DATA.—The Director shall, by regulation or order, establish procedures for the collection of data from enterprises for purposes of this subsection, including the format and the process for collection of such data.

(c) REPORT TO CONGRESS.—The Director shall annually submit a report to Congress on the results of the study conducted under subsection (a), based on the aggregated data collected under subsection (a) for the subject year, regarding the amount of such fees and the criteria used by the enterprises to determine such fees.

(d) CONTENTS OF REPORTS.—The reports required under subsection (c) shall identify and analyze—

(1) the factors considered in determining the amount of the guarantee fees charged;

(2) the total revenue earned by the enterprises from guarantee fees;

(3) the total costs incurred by the enterprises for providing guarantees;

(4) the average guarantee fee charged by the enterprises;

(5) an analysis of any increase or decrease in guarantee fees from the preceding year;

(6) a breakdown of the revenue and costs associated with providing guarantees, based on product type and risk classifications; and

(7) a breakdown of guarantee fees charged based on asset size of the originator and the number of loans sold or transferred to an enterprise.

(e) PROTECTION OF INFORMATION.—Nothing in this section may be construed to require or authorize the Director to publicly disclose information that is confidential or proprietary.

SEC. 2407. REPORT ON CONFORMING LOAN LIMITS.

The Comptroller General of the United States shall submit a report to Congress on whether raising the loan limits under section 302(b) of the Federal National Mortgage Association Act (12 U.S.C. 1717(b)) and section 305(a) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1454(a)) would promote the availability of affordable housing.

SEC. 2408. REVIEWS AND STUDIES RELATING TO ENTERPRISES AND RELATED FOUNDATIONS.

(a) ANNUAL REVIEWS.—The Director shall annually conduct a review of the Freddie Mac Foundation and the Office of Corporate Giving of the Federal National Mortgage Corporation (formerly known as the ''Fannie Mae Foundation''), or any successors thereto, to ensure that such entities are not engaged in impermissible lobbying activities.

(b) STUDY ON LOBBYING ACTIVITIES TO OBSTRUCT SPECIAL EXAMINATION.—The Director shall conduct a study to determine whether any actions or inactions by an OFHEO-designated executive officer of a Government-Sponsored Enterprise, that was an employee of the Government-Sponsored-Enterprise during the period of review of the OFHEO Special Examination of Accounting Policies and Practices of Fannie Mae for the years 1998 through mid-2004 and remains an employee of such Government-Sponsored Enterprise as of the date of enactment of this Act, were intended to obstruct the Special Examination by OFHEO.

(c) REPORT.—The Director shall submit a report to Congress on the results of the reviews and study required under subsections (a) and (b), not later than 60 days after the date of enactment of this Act, and annually thereafter with respect to the reviews conducted under subsection (a).

SEC. 2409. RECOMMENDATIONS.

Each report submitted pursuant to this title shall include specific recommendations, if any, of appropriate policies, limitations, regulations, legislation, or other actions to deal appropriately and effectively with the issues addressed by such report.

TITLE V—GSE MISSION IMPROVEMENT

SEC. 2501 SHORT TITLE.

This title may be cited as the ''Federal Housing Enterprise Regulatory Reform Act of 2008'' or the ''GSE Mission Improvement Act''.

SEC. 2502. ANNUAL HOUSING REPORT REGARDING ENTERPRISES.

(a) REPEAL.—Section 1324 of the Housing and Community Development Act of 1992 (12 U.S.C. 4544) is hereby repealed.

(b) ANNUAL HOUSING REPORT.—The Housing and Community Development Act of 1992 is amended by inserting after section 1323 the following:

''SEC. 1324. ANNUAL HOUSING REPORT REGARDING ENTERPRISES.

''(a) IN GENERAL.—After reviewing and analyzing the reports submitted under section 309(n) of the Federal National Mortgage Association Charter Act and section 307(f) of the Federal Home Loan Mortgage Corporation Act, the Secretary shall submit a report, not later than October 30 of each year,

to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives, on the activities of each enterprise.

''(b) CONTENTS.—The report required under subsection (a) shall—

''(1) discuss—

''(A) the extent to and manner in which—

''(i) each enterprise is achieving the annual housing goals established under subpart B;

''(ii) each enterprise is complying with its duty to serve underserved markets, as established under section 1335;

''(iii) each enterprise is complying with section 1337; and

''(iv) each enterprise is achieving the purposes of the enterprise established by law; and

''(B) the actions that each enterprise could undertake to promote and expand the purposes of the enterprise;

''(2) aggregate and analyze relevant data on income to assess the compliance of each enterprise with the housing goals established under subpart B;

''(3) aggregate and analyze data on income, race, and gender by census tract and other relevant classifications, and compare such data with larger demographic, housing, and economic trends;

''(4) identify the extent to which each enterprise is involved in mortgage purchases and secondary market activities involving subprime loans; and

''(5) compare the characteristics of subprime loans purchased and securitized by each enterprise to other loans purchased and securitized by each enterprise.

''(c) DATA COLLECTION AND REPORTING.—

''(1) IN GENERAL.—To assist the Secretary in analyzing the matters described in subsection (b), the Secretary shall conduct, on a monthly basis, a survey of mortgage markets in accordance with this subsection.

''(2) DATA POINTS.—Each monthly survey conducted by the Secretary under paragraph (1) shall collect data on—

''(A) the characteristics of individual mortgages that are eligible for purchase by the enterprises and the characteristics of individual mortgages that are not eligible for purchase by the enterprises including, in both cases, information concerning—

''(i) the price of the house that secures the mortgage;

''(ii) the loan-to-value ratio of the mortgage, which shall reflect any secondary liens on the relevant property;

''(iii) the terms of the mortgage;

''(iv) the creditworthiness of the borrower or borrowers; and

''(v) whether the mortgage, in the case of a conforming mortgage, was purchased by an enterprise;

''(B) the characteristics of individual subprime mortgages that are eligible for purchase by the enterprises and the characteristics of borrowers under such mortgages, including the credit worthiness of such borrowers and determination whether such borrowers would qualify for prime lending; and

''(C) such other matters as the Secretary determines to be appropriate.

''(3) PUBLIC AVAILABILITY.—The Secretary shall make any data collected by the Secretary in connection with the conduct of a monthly survey available to the public in a timely manner, provided that the Secretary may modify the data released to the public to ensure that the data—

''(A) is not released in an identifiable form; and

''(B) is not otherwise obtainable from other publicly available data sets.

''(4) DEFINITION.—For purposes of this subsection, the term 'identifiable form' means any representation of information that permits the identity of a borrower to which the information relates to be reasonably inferred by either direct or indirect means.''.

SEC. 2503. PUBLIC USE DATABASE.

Section 1323 of the Housing and Community Development Act of 1992 (42 U.S.C. 4543) is amended—

(1) in subsection (a)—

(A) by striking ''(a) IN GENERAL.—The Secretary'' and inserting the following:

''(a) AVAILABILITY.—

''(1) IN GENERAL.—The Secretary''; and

(B) by adding at the end the following new paragraph:

''(2) CENSUS TRACT LEVEL REPORTING.—Such data shall include the data elements required to be reported under the Home Mortgage Disclosure Act of 1975, at the census tract level.'';

(2) in subsection (b)(2), by inserting before the period at the end the following: ''or with subsection (a)(2)''; and

(3) by adding at the end the following new subsection:

''(d) TIMING.—Data submitted under this section by an enterprise in connection with a provision referred to in subsection (a) shall be made publicly available in accordance with this section not later than September 30 of the year following the year to which the data relates.''.

SEC. 2504. REVISION OF HOUSING GOALS.

(a) REPEAL.—Sections 1331 through 1334 of the Housing and Community Development Act of 1992 (12 U.S.C. 4561 through 4564) are hereby repealed.

(b) HOUSING GOAL.—The Housing and Community Development Act of 1992 (12 U.S.C. 4301 et seq.) is amended by inserting before section 1335 the following:

''SEC. 1331. ESTABLISHMENT OF HOUSING GOALS.

''(a) IN GENERAL.—The Secretary shall, by regulation, establish effective for the first calendar year that begins after the date of enactment of the Federal Housing Enterprise Regulatory Reform Act of 2008, and each year thereafter, annual housing goals, as described in sections 1332, 1333, and 1334, with respect to the mortgage purchases by the enterprises.

''(b) SPECIAL COUNTING REQUIREMENTS.—

''(1) IN GENERAL.—The Secretary shall determine whether an enterprise shall receive full, partial, or no credit for a transaction toward achievement of any of the housing goals established pursuant to this section or sections 1332 through 1334.

''(2) CONSIDERATIONS.—In making any determination under paragraph (1), the Secretary shall consider whether a transaction or activity of an enterprise is substantially equivalent to a mortgage purchase and either (A) creates a new market, or (B) adds liquidity to an existing market, provided however that the terms and conditions of such mortgage purchase is neither determined to be unacceptable, nor contrary to good lending practices, and otherwise promotes sustainable homeownership and further, that such mortgage purchase actually fulfills the purposes of the enterprise and is in accordance with the chartering Act of such enterprise.

''(c) ELIMINATING INTEREST RATE DISPARITIES.—

''(1) IN GENERAL.—In establishing and implementing the housing goals under this subpart, the Secretary shall require the enterprises to disclose appropriate information to allow the Secretary to assess if there are any disparities in interest rates charged on mortgages to borrowers who are minorities, as compared with borrowers of similar creditworthiness who are not minorities, as evidenced in reports pursuant to the Home Mortgage Disclosure Act of 1975.

''(2) REPORT TO CONGRESS AND REMEDY REQUIRED ON DISPARITIES.—Upon a finding by the Secretary that a pattern of disparities in interest rates exists pursuant to the information provided by an enterprise under paragraph (1), the Secretary shall—

''(A) forward to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives a report detailing the disparities; and

''(B) require the enterprise to take such actions as the Secretary deems appropriate pursuant to this Act, to remedy such identified interest rate disparities.

''(3) IDENTITY OF INDIVIDUALS NOT DISCLOSED.—In carrying out this subsection, the Secretary shall ensure that no personally identifiable financial information that would enable an individual borrower to be reasonably identified shall be made public.

''(d) TIMING.—The Secretary shall establish an annual deadline for the establishment of housing goals described in subsection (a), taking into consideration the need for the enterprises to reasonably and sufficiently plan their operations and activities in advance, including operations and activities necessary to meet such goals.

''SEC. 1331A. DISCRETIONARY ADJUSTMENT OF HOUSING GOALS.

''(a) AUTHORITY.—An enterprise may petition the Secretary in writing at any time during a year to reduce the level of any goal for such year established pursuant to this subpart.

''(b) STANDARD FOR REDUCTION.—The Secretary may reduce the level for a goal pursuant to such a petition only if—

''(1) market and economic conditions or the financial condition of the enterprise require such action; or

''(2) efforts to meet the goal would result in the constraint of liquidity, over investment in certain market segments, or other consequences contrary to the intent of this subpart, section 301(3) of the Federal National Mortgage Association Charter Act (12 U.S.C. 1716(3)), or section 301(3) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1451 note), as applicable.

''(c) DETERMINATION.—

''(1) 30-DAY PERIOD.—The Secretary shall make a determination regarding any proposed reduction within 30 days of receipt of the petition regarding the reduction.

''(2) EXTENSION.—The Secretary may extend the period described in paragraph (1) for a single additional 15-day period, but only if the Secretary requests additional information from the enterprise.

''SEC. 1332. SINGLE-FAMILY HOUSING GOALS.

''(a) ESTABLISHMENT OF GOALS.—

''(1) IN GENERAL.—The Secretary shall establish annual goals for the purchase by each enterprise of conventional, conforming, single-family, owner-occupied, purchase money mortgages financing housing for each of the following:

''(A) Low-income families.

''(B) Families that reside in low-income areas.

''(C) Very low-income families.

''(2) GOALS AS PERCENTAGE OF TOTAL PURCHASE MONEY MORTGAGE PURCHASES.—The goals established under paragraph (1) shall be established as a percentage of the total number of single-family dwelling units financed by single-family purchase money mortgages of the enterprise.

''(b) DETERMINATION OF COMPLIANCE.—

''(1) IN GENERAL.—The Secretary shall determine, for each year that the housing goals under this section are in effect pursuant to section 1331(a), whether each enterprise has complied with the single-family housing goals established under this section for such year.

''(2) COMPLIANCE REQUIREMENTS.—An enterprise shall be considered to be in compliance

with a goal described under subsection (a) for a year, only if, for each of the types of families described in subsection (a), the percentage of the number of conventional, conforming, single-family, owner-occupied, purchase money mortgages purchased by each enterprise in such year that serve such families, meets or exceeds the target established under subsection (c) for the year for such type of family.

''(c) ANNUAL TARGETS.—

''(1) IN GENERAL.—The Secretary shall establish annual targets for each goal described in subsection (a).

''(2) CONSIDERATIONS.—In establishing annual targets under paragraph (1), the Secretary shall consider—

''(A) national housing needs;

''(B) economic, housing, and demographic conditions;

''(C) the performance and effort of the enterprises toward achieving the housing goals under this section in previous years;

''(D) the ability of the enterprise to lead the industry in making credit available;

''(E) recent information submitted in compliance with the Home Mortgage Disclosure Act of 1975 and such other mortgage data as may be available for non metropolitan areas regarding conventional, conforming, single-family, owner-occupied, purchase money mortgages originated and purchased;

''(F) the size of the purchase money conventional mortgage market serving each of the types of families described in subsection (a), relative to the size of the overall purchase money mortgage market; and

''(G) the need to maintain the sound financial condition of the enterprises.

''(d) NOTICE OF DETERMINATION AND ENTERPRISE COMMENT.—

''(1) NOTICE.—Within 30 days of making a determination under subsection (b) regarding compliance of an enterprise for a year with the housing goals established under this section and before any public disclosure thereof, the Secretary shall provide notice of the determination to the enterprise, which shall include an analysis and comparison, by the Secretary, of the performance of the enterprise for the year and the targets for the year under subsection (c).

''(2) COMMENT PERIOD.—The Secretary shall provide each enterprise an opportunity to comment on the determination during the 30-day period beginning upon receipt by the enterprise of the notice.

''(e) USE OF BORROWER INCOME.—In monitoring the performance of each enterprise pursuant to the housing goals under this section and evaluating such performance (for purposes of section 1336), the Secretary shall consider a mortgagor's income to be the income of the mortgagor at the time of origination of the mortgage.

''SEC. 1333. SINGLE-FAMILY HOUSING REFINANCE GOALS.

''(a) PREPAYMENT OF EXISTING LOANS.—

''(1) IN GENERAL.—The Secretary shall establish annual goals for the purchase by each enterprise of mortgages on conventional, conforming, single-family, owner-occupied housing given to pay off or prepay an existing loan served by the same property for each of the following:

''(A) Low-income families.

''(B) Families that reside in low-income areas.

''(C) Very low-income families.

''(2) GOALS AS PERCENTAGE OF TOTAL REFINANCING MORTGAGE PURCHASES.—The goals described under paragraph (1) shall be established as a percentage of the total number of single-family dwelling units refinanced by mortgage purchases of each enterprise.

''(b) DETERMINATION OF COMPLIANCE.—

''(1) IN GENERAL.—The Secretary shall determine, for each year that the housing goals under this section are in effect pursuant to section 1331(a), whether each enterprise has complied with the single-family housing refinance goals established under this section for such year.

''(2) COMPLIANCE.—An enterprise shall be considered to be in compliance with the goals of this section for a year, only if, for each of the types of families described in subsection (a), the percentage of the number of conventional, conforming, single-family, owner-occupied refinancing mortgages purchased by each enterprise in such year that serve such families, meets or exceeds the target for the year for such type of family that is established under subsection (c).

''(c) ANNUAL TARGETS.—

''(1) IN GENERAL.—The Secretary shall establish annual targets for each goal described in subsection (a).

''(2) CONSIDERATIONS.—In establishing annual targets under paragraph (1), the Secretary shall consider—

''(A) national housing needs;

''(B) economic, housing, and demographic conditions;

''(C) the performance and effort of the enterprises toward achieving the housing goals under this section in previous years;

''(D) the ability of the enterprise to lead the industry in making credit available;

''(E) recent information submitted in compliance with the Home Mortgage Disclosure Act of 1975 and such other mortgage data as may be available for non metropolitan areas regarding mortgages on conventional, conforming, single-family, owner-occupied, refinanced mortgages originated and purchased;

''(F) the size of the refinance conventional mortgage market serving each of the types of families described in subsection (a) relative to the size of the overall refinance conventional mortgage market; and

''(G) the need to maintain the sound financial condition of the enterprises.

''(d) NOTICE OF DETERMINATION AND ENTERPRISE COMMENT.—

''(1) NOTICE.—Within 30 days of making a determination under subsection (b) regarding compliance of an enterprise for a year with the housing goals established under this section and before any public disclosure thereof, the Secretary shall provide notice of the determination to the enterprise, which shall include an analysis and comparison, by the Secretary, of the performance of the enterprise for the year and the targets for the year under subsection (c).

''(2) COMMENT PERIOD.—The Secretary shall provide each enterprise an opportunity to comment on the determination during the 30-day period beginning upon receipt by the enterprise of the notice.

''(e) USE OF BORROWER INCOME.—In monitoring the performance of each enterprise pursuant to the housing goals under this section and evaluating such performance (for purposes of section 1336), the Secretary shall consider a mortgagor's income to be the income of the mortgagor at the time of origination of the mortgage.

''SEC. 1334. MULTIFAMILY SPECIAL AFFORDABLE HOUSING GOAL.

''(a) ESTABLISHMENT.—

''(1) IN GENERAL.—The Secretary shall establish, by regulation, by unit or dollar volume, as determined by the Secretary, an annual goal for the purchase by each enterprise of:

''(A) Mortgages that finance dwelling units affordable to very low-income families.

''(B) Mortgages that finance dwelling units assisted by the low-income housing tax credit under section 42 of the Internal Revenue Code of 1986.

''(2) ADDITIONAL REQUIREMENTS FOR SMALLER PROJECTS.—The Secretary shall establish additional requirements for the purchase by each enterprise of mortgages described in paragraph (1) for multifamily housing projects of a smaller or limited size, which may be based on the number of dwelling units in the project or the amount of the mortgage, or both, and shall include multifamily housing projects of 5 to 50 units (as adjusted by the Secretary), or with mortgages of up to $5,000,000 (as adjusted by the Secretary).

''(3) FACTORS.—In establishing the goal under this section relating to mortgages on multifamily housing for an enterprise, the Secretary shall consider—

''(A) national multifamily mortgage credit needs;

''(B) the performance and effort of the enterprise in making mortgage credit available for multifamily housing in previous years;

''(C) the size of the multifamily mortgage market;

''(D) the most recent information available for the Residential Survey published by the Census Bureau, and such other data as may be available regarding multifamily mortgages;

''(E) the ability of the enterprise to lead the industry in expanding mortgage credit availability at favorable terms, especially for underserved markets, such as for—

''(i) small multifamily projects;

''(ii) multifamily properties in need of preservation and rehabilitation; and

''(iii) multifamily properties located in rural areas; and

''(F) the need to maintain the sound financial condition of the enterprise.

''(b) UNITS FINANCED BY HOUSING FINANCE AGENCY BONDS.—The Secretary may give credit toward the achievement of the multifamily special affordable housing goal under this section (for purposes of section 1336) to dwelling units in multifamily housing that otherwise qualify under such goal and that is financed by tax-exempt or taxable bonds issued by a State or local housing finance agency, but only if—

''(1) such bonds are secured by a guarantee of the enterprise; or

''(2) are not investment grade and are purchased by the enterprise.

''(c) USE OF TENANT INCOME OR RENT.—

''(1) IN GENERAL.—The Secretary shall monitor the performance of each enterprise in meeting the goals established under this section and shall evaluate such performance (for purposes of section 1336) based on—

''(A) if such data is available, the income of the prospective or actual tenants of the property; or

''(B) if such data is not available, the rent levels affordable to low-income and very low-income families.

''(2) RENT LEVEL.—A rent level shall be considered to be affordable for purposes of this subsection for an income category referred to in this subsection if it does not exceed 30 percent of the maximum income level of such income category, with appropriate adjustments for unit size as measured by the number of bedrooms.

''(d) DETERMINATION OF COMPLIANCE.—

''(1) IN GENERAL.—The Secretary shall, for each year that the housing goal under this section is in effect pursuant to section 1331(a), determine whether each enterprise has complied with such goal and the additional requirements under subsection (a)(2).

''(2) COMPLIANCE.—An enterprise shall be considered to be in compliance with the goal of this section for a year only if for each of the properties described in subsection (a), the percentage of the number of multifamily mortgages purchased by each enterprise in such year, that serve such families, meets or exceeds the goals for the year for such type of properties that are established under subsection (a).

''(e) CONSIDERATION OF UNITS IN SINGLE-FAMILY RENTAL HOUSING.—In establishing any goal under this section, the Secretary may take into consideration the number of housing units financed by any mortgage on single-family rental housing purchased by an enterprise.''.

(c) CONFORMING AMENDMENTS.—The Housing and Community Development Act of 1992 is amended—

(1) in section 1335(a) (12 U.S.C. 4565(a)), in the matter preceding paragraph (1), by striking ''low- and moderate-income housing goal'' and all that follows through ''section 1334'' and inserting ''housing goals established under this subpart'';

(2) in section 1336 (12 U.S.C. 4566)—

(A) in section (a)(1), by striking ''sections 1332, 1333, and 1334,'' and inserting ''this subpart''; and

(B) in subsection (b)(1), by striking ''section 1332, 1333, or 1334,'' and inserting ''this subpart''.

(d) DEFINITIONS.—Section 1303 of the Housing and Community Development Act of 1992 (12 U.S.C. 4502) is amended—

(1) in paragraph (19), by striking ''60 percent'' each place such term appears and inserting ''50 percent''; and

(2) by adding at the end the following:

''(20) CONFORMING MORTGAGE.—The term 'conforming mortgage' means, with respect to an enterprise, a conventional mortgage having an original principal obligation that does not exceed the dollar limitation, in effect at the time of such origination, under—

''(A) section 302(b)(2) of the Federal National Mortgage Association Charter Act; or

''(B) section 305(a)(2) of the Federal Home Loan Mortgage Corporation Act.

''(21) LOW-INCOME AREA.—The term 'low-income area' means a census tract or block numbering area in which the median income does not exceed 80 percent of the median income for the area in which such census tract or block numbering area is located, and, for the purposes of section 1332(a)(2), shall include families having incomes not greater than 100 percent of the area median income who reside in minority census tracts.

''(22) VERY LOW-INCOME.—

''(A) IN GENERAL.—The term 'very low-income' means—

''(i) in the case of owner-occupied units, income in excess of 30 percent but not greater than 50 percent of the area median income; and

''(ii) in the case of rental units, income in excess of 30 percent but not greater than 50 percent of the area median income, with adjustments for smaller and larger families, as determined by the Secretary.

''(B) RULE OF CONSTRUCTION FOR PURPOSES OF HOUSING GOALS.—Notwithstanding subparagraph (A), for purposes of any housing goal established under sections 1331 through 1334, the term 'very low-income' means—

''(i) in the case of owner-occupied units, families having incomes not greater than 50 percent of the area median income;

''(ii) in the case of rental units, families having incomes not greater than 50 percent of the area median income, with adjustments for smaller and larger families, as determined by the Secretary.

''(23) EXTREMELY LOW-INCOME.—The term 'extremely low-income' means—

''(A) in the case of owner-occupied units, income not in excess of 30 percent of the area median income; and

''(B) in the case of rental units, income not in excess of 30 percent of the area median income, with adjustments for smaller and larger families, as determined by the Secretary.

''(24) SHORTAGE OF STANDARD RENTAL UNITS BOTH AFFORDABLE AND AVAILABLE TO EXTREMELY LOW-INCOME RENTER HOUSEHOLDS.—

''(A) IN GENERAL.—The term 'shortage of standard rental units both affordable and available to extremely low-income renter households' means the gap between—

''(i) the number of units with complete plumbing and kitchen facilities with a rent that is 30 percent or less of 30 percent of the adjusted area median income as determined by the Secretary that are occupied by extremely low-income renter households or are vacant for rent; and

''(ii) the number of extremely low-income renter households.

''(B) RULE OF CONSTRUCTION.—If the number of units described in subparagraph (A)(i) exceeds the number of extremely low-income households as described in subparagraph (A)(ii), there is no shortage.

''(25) SHORTAGE OF STANDARD RENTAL UNITS BOTH AFFORDABLE AND AVAILABLE TO VERY LOW-INCOME RENTER HOUSEHOLDS.—

''(A) IN GENERAL.—The term 'shortage of standard rental units both affordable and available to very low-income renter households' means the gap between—

''(i) the number of units with complete plumbing and kitchen facilities with a rent that is 30 percent or less of 50 percent of the adjusted area median income as determined by the Secretary that are occupied by either extremely low- or very low-income renter households or are vacant for rent; and

''(ii) the number of extremely low- and very low-income renter households.

''(B) RULE OF CONSTRUCTION.—If the number of units described in subparagraph (A)(i) exceeds the number of extremely low- and very low-income households as described in subparagraph (A)(ii), there is no shortage.''.

SEC. 2505. DUTY TO SERVE UNDERSERVED MARKETS.

(a) ESTABLISHMENT AND EVALUATION OF PERFORMANCE.—Section 1335 of the Housing and Community Development Act of 1992 (12 U.S.C. 4565) is amended—

(1) in the section heading, by inserting ''**DUTY TO SERVE UNDERSERVED MARKETS AND**'' before ''**OTHER**'';

(2) by striking subsection (b);

(3) in subsection (a)—

(A) in the matter preceding paragraph (1), by inserting ''and to carry out the duty under subsection (a) of this section,'' before '', each enterprise shall'';

(B) in paragraph (3), by inserting ''and'' after the semicolon at the end;

(C) in paragraph (4), by striking ''; and'' and inserting a period;

(D) by striking paragraph (5); and

(E) by redesignating such subsection as subsection (b);

(4) by inserting before subsection (b) (as redesignated by paragraph (3)(E) of this subsection) the following new subsection:

''(a) DUTY TO SERVE UNDERSERVED MARKETS.—

''(1) DUTY.—In accordance with the purpose of the enterprises under section 301(3) of the Federal National Mortgage Association Charter Act (12 U.S.C. 1716) and section 301(b)(3) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1451 note) to undertake activities relating to mortgages on housing for very low-, low-, and moderate-income families involving a reasonable economic return that may be less than the return earned on other activities, each enterprise shall have the duty to purchase or securitize mortgage investments and improve the distribution of investment capital available for mortgage financing for underserved markets.

''(2) UNDERSERVED MARKETS.—To meet its duty under paragraph (1), each enterprise shall comply with the following requirements with respect to the following underserved markets:

''(A) MANUFACTURED HOUSING.—The enterprise shall lead the industry in developing loan products and flexible underwriting guidelines to facilitate a secondary market for mortgages on manufactured homes for very low-, low-, and moderate-income families.

''(B) AFFORDABLE HOUSING PRESERVATION.—The enterprise shall lead the industry in developing loan products and flexible underwriting guidelines to facilitate a secondary market to preserve housing affordable to extremely low-, very low-, and low-income families, including housing projects subsidized under—

''(i) the project-based and tenant-based rental assistance programs under section 8 of the United States Housing Act of 1937;

''(ii) the program under section 236 of the National Housing Act;

''(iii) the below-market interest rate mortgage program under section 221(d)(4) of the National Housing Act;

''(iv) the supportive housing for the elderly program under section 202 of the Housing Act of 1959;

''(v) the supportive housing program for persons with disabilities under section 811 of the Cranston-Gonzalez National Affordable Housing Act; and

''(vi) the rural rental housing program under section 515 of the Housing Act of 1949.

''(C) SUBPRIME BORROWERS.—The enterprises shall lead the industry in making mortgage credit available to low- and moderate-income families with credit impairment, and shall develop underwriting guidelines that preclude the purchase of loans with unacceptable terms and conditions, or which are contrary to good lending practices or to sustainable homeownership, including—

''(i) mandatory arbitration provisions;

''(ii) single premium credit insurance financed into the mortgages;

''(iii) unreasonable prepayment penalties and up front fees;

''(iv) introductory rates that expire in less than 10 years; and

''(v) any other such loans with unacceptable terms and conditions, or which are contrary to good lending practices or to sustainable homeownership.

''(D) COMMUNITY DEVELOPMENT FINANCIAL INSTITUTIONS.—The enterprises shall—

''(i) lead the industry in developing loan products and flexible underwriting guidelines to facilitate a secondary market for mortgages on unconventional affordable housing loans made or purchased by Treasury certified community development financial institutions and other nonprofit housing lenders; and

''(ii) utilize credit facilities, capital and loss reserves, credit enhancements, securitization, and other methods to facilitate a secondary market for mortgages on unconventional affordable housing loans made or purchased by community development financial institutions certified by the Secretary of the Treasury, as determined by the Secretary and consistent with the Federal National Mortgage Association Charter Act, the Federal Home Loan Mortgage Corporation Act, and the provisions of this Act.

''(E) COMMUNITY REINVESTMENT ACT CONSIDERATIONS.—The enterprise shall take affirmative steps to assist depository institutions to meet their obligations under the Community Reinvestment Act, which shall include developing appropriate underwriting standards, business practices, repurchase requirements, pricing, fees, and procedures.

''(F) RURAL AND OTHER UNDERSERVED MARKETS.—

''(i) IN GENERAL.—The enterprises shall lead the industry in developing loan products

and flexible underwriting guidelines to facilitate a secondary market for mortgages on housing for very low-, low-, and moderate-income families in rural areas, and for mortgages for housing for any other underserved market for very low-, low-, and moderate-income families that the Secretary identifies as lacking adequate credit through conventional lending sources.

''(ii) IDENTIFICATION OF UNDERSERVED MARKETS.—Underserved markets may be identified for purposes of this paragraph by borrower type, market segment, or geographic area.

''(G) OTHER UNDERSERVED MARKETS.—The Secretary may, by rule, determine other underserved markets that the enterprises shall be required to lead the market in facilitating the availability of investment capital for mortgage financing for such markets.''; and

(5) by adding at the end the following new subsection:

''(c) EVALUATION AND REPORTING OF COMPLIANCE.—

''(1) EVALUATING COMPLIANCE.—

''(A) IN GENERAL.—Not later than 6 months after the date of enactment of the Federal Housing Enterprise Regulatory Reform Act of 2008, the Secretary shall establish through notice and comment rulemaking, a manner for evaluating whether, and the extent to which, the enterprises have complied with the duty under subsection (a) to serve underserved markets, and for rating the extent of such compliance.

''(B) RATING COMPLIANCE.—Using the evaluation method established under subparagraph (A), the Secretary shall, for each year, evaluate such compliance and rate the performance of each enterprise as to the extent of compliance.

''(C) EVALUATIONS AND RATINGS INCLUDED IN ANNUAL REPORT OF THE SECRETARY.—The Secretary shall include such evaluation and rating for each enterprise for a year in the report for that year submitted pursuant to section 1319B(a).

''(2) SEPARATE EVALUATIONS.—In determining whether an enterprise has complied with the duty referred to in paragraph (1), the Secretary shall separately evaluate whether the enterprise has complied with such duty with respect to each of the underserved markets identified in subsection (a), taking into consideration—

''(A) the development of loan products and more flexible underwriting guidelines;

''(B) the volume of loans purchased in each of such underserved markets; and

''(C) such other factors as the Secretary may determine.''.

(b) ENFORCEMENT.—Section 1336(a) of the Housing and Community Development Act of 1992 (12 U.S.C. 4566(a)) is amended—

(1) in paragraph (1), by inserting ''and with the duty under section 1335(a) of each enterprise with respect to underserved markets'' before '', as provided in this section,''; and

(2) by adding at the end the following new paragraph:

''(4) ENFORCEMENT OF DUTY TO PROVIDE MORTGAGE CREDIT TO UNDERSERVED MARKETS.—

''(A) IN GENERAL.—The duty under section 1335(a) of each enterprise to serve underserved markets (as determined in accordance with section 1335(c)) shall be enforceable under this section to the same extent and under the same provisions that the housing goals established under sections 1332, 1333, and 1334 are enforceable.

''(B) LIMITATION.—The duty under section 1335(a) shall not be enforceable under any other provision of this title (including subpart C of this part) other than this section or under any provision of the Federal National Mortgage Association Charter Act or the Federal Home Loan Mortgage Corporation Act.''.

SEC. 2506. MONITORING AND ENFORCING COMPLIANCE WITH HOUSING GOALS.

Section 1336 of the Housing and Community Development Act of 1992 (12 U.S.C. 4566) is amended—

(1) in subsection (b)—

(A) in the subsection heading, by inserting ''PRELIMINARY'' before ''DETERMINATION'';

(B) by striking paragraph (1) and inserting the following new paragraph:

''(1) NOTICE.—If the Secretary preliminarily determines that an enterprise has failed, or that there is a substantial probability that an enterprise will fail to meet any housing goal established under this subpart, the Secretary shall provide written notice to the enterprise of such a preliminary determination, the reasons for such determination, and the information on which the Secretary based the determination.'';

(C) in paragraph (2)—

(i) in subparagraph (A), by inserting ''finally'' before ''determining'';

(ii) by striking subparagraphs (B) and (C) and inserting the following new subparagraph:

''(B) EXTENSION OR SHORTENING OF PERIOD.—The Secretary may—

''(i) extend the period under subparagraph (A) for good cause for not more than 30 additional days; and

''(ii) shorten the period under subparagraph (A) for good cause.''; and

(iii) by redesignating subparagraph (D) as subparagraph (C); and

(D) in paragraph (3)—

(i) in subparagraph (A), by striking ''determine'' and inserting ''issue a final determination of'';

(ii) in subparagraph (B), by inserting ''final'' before ''determinations''; and

(iii) in subparagraph (C)—

(I) by striking ''Committee on Banking, Finance and Urban Affairs'' and inserting ''Committee on Financial Services''; and

(II) by inserting ''final'' before ''determination'' each place such term appears; and

(2) in subsection (c)—

(A) by striking the subsection designation and heading and all that follows through the end of paragraph (1) and inserting the following:

''(c) CEASE-AND-DESIST ORDERS, CIVIL MONEY PENALTIES, AND REMEDIES INCLUDING HOUSING PLANS.—

''(1) REQUIREMENT.—

''(A) HOUSING PLAN.—If the Secretary finds, pursuant to subsection (b), that there is a substantial probability that an enterprise will fail, or has actually failed to meet any housing goal under this subpart and that the achievement of the housing goal was or is feasible, the Secretary may require that the enterprise submit a housing plan under this subsection.

''(B) REFUSAL TO SUBMIT HOUSING PLAN.—If the Secretary makes such a finding and the enterprise refuses to submit such a plan, submits an unacceptable plan, fails to comply with the plan or the Secretary finds that the enterprise has failed to meet any housing goal under this subpart, in addition to requiring an enterprise to submit a housing plan, the Secretary may—

''(i) issue a cease-and-desist order in accordance with section 1341;

''(ii) impose civil money penalties in accordance with section 1345; or

''(iii) order other remedies as set forth in paragraph (7) of this subsection.'';

(B) in paragraph (2)—

(i) by striking ''CONTENTS.—Each housing plan'' and inserting ''HOUSING PLAN.—If the Secretary requires a housing plan under this section, such a plan''; and

(ii) in subparagraph (B), by inserting ''and changes in its operations'' after ''improvements'';

(C) in paragraph (3)—

(i) by inserting ''comply with any remedial action or'' before ''submit a housing plan''; and

(ii) by striking ''under subsection (b)(3) that a housing plan is required'';

(D) in paragraph (4), by striking the first 2 sentences and inserting the following:

''(A) REVIEW.—The Secretary shall review each submission by an enterprise, including a housing plan submitted under this subsection, and not later than 30 days after submission, approve or disapprove the plan or other action.

''(B) EXTENSION OF TIME.—The Secretary may extend the period for approval or disapproval for a single additional 30-day period if the Secretary determines such extension necessary.

''(C) APPROVAL.—''; and

(E) by adding at the end the following new paragraph:

''(7) ADDITIONAL REMEDIES FOR FAILURE TO MEET GOALS.—In addition to ordering a housing plan under this section, issuing cease-and-desist orders under section 1341, and ordering civil money penalties under section 1345, the Secretary may—

''(A) seek other actions when an enterprise fails to meet a goal; and

''(B) exercise appropriate enforcement authority available to the Secretary under this Act.''.

SEC. 2507. AFFORDABLE HOUSING PROGRAMS.

(a) REPEAL.—Sections 1337 of the Housing and Community Development Act of 1992 (12 U.S.C. 4562 note) is hereby repealed.

(b) ANNUAL HOUSING REPORT.—The Housing and Community Development Act of 1992 is amended by inserting after section 1336 the following:

''SEC. 1337. AFFORDABLE HOUSING ALLOCATIONS.

''(a) SET ASIDE AND ALLOCATION OF AMOUNTS BY ENTERPRISES.—Subject to subsection (b), in each fiscal year—

''(1) the Federal Home Loan Mortgage Corporation shall—

''(A) set aside an amount equal to 4.2 basis points for each dollar of unpaid principal balance of its total new business purchases; and

''(B) allocate or otherwise transfer—

''(i) 65 percent of such amounts to the Secretary of Housing and Urban Development to fund the affordable housing block grant program established under section 1338; and

''(ii) 35 percent of such amounts to fund the Capital Magnet Fund established pursuant to section 1339; and

''(2) the Federal National Mortgage Association shall—

''(A) set aside an amount equal to 4.2 basis points for each dollar of unpaid principal balance of its total new business purchases; and

''(B) allocate or otherwise transfer—

''(i) 65 percent of such amounts to the Secretary of Housing and Urban Development to fund the affordable housing block grant program established under section 1338; and

''(ii) 35 percent of such amounts to fund the Capital Magnet Fund established pursuant to section 1339.

''(b) SUSPENSION OF CONTRIBUTIONS.—The Secretary shall temporarily suspend allocations under subsection (a) by an enterprise upon a finding by the Secretary that such allocations—

''(1) are contributing, or would contribute, to the financial instability of the enterprise;

''(2) are causing, or would cause, the enterprise to be classified as undercapitalized; or

''(3) are preventing, or would prevent, the enterprise from successfully completing a capital restoration plan under section 1369C.

''(c) PROHIBITION OF PASS-THROUGH OF COST OF ALLOCATIONS.—The Secretary shall, by regulation, prohibit each enterprise from redirecting the costs of any allocation required under this section, through increased charges or fees, or decreased premiums, or in any other manner, to the originators of mortgages purchased or securitized by the enterprise.

''(d) ENFORCEMENT OF REQUIREMENTS ON ENTERPRISE.—Compliance by the enterprises with the requirements under this section shall be enforceable under subpart C. Any reference in such subpart to this part or to an order, rule, or regulation under this part specifically includes this section and any order, rule, or regulation under this section.

''SEC. 1338. AFFORDABLE HOUSING BLOCK GRANT PROGRAM.

''(a) ESTABLISHMENT AND PURPOSE.—The Secretary of Housing and Urban Development shall establish and manage an affordable housing block grant program, which shall be funded with amounts allocated by the enterprises under section 1337. The purpose of the block grant program under this section is to provide grants to States for use—

''(1) to increase and preserve the supply of rental housing for extremely low- and very low-income families, including homeless families; and

''(2) to increase homeownership for extremely low- and very low-income families.

''(b) AFFORDABLE HOUSING BLOCK GRANT ALLOCATIONS FOR HOMEOWNERSHIP PRESERVATION IN FISCAL YEAR 2008.—

''(1) ASSISTANCE FOR HOMEOWNERS FACING FORECLOSURE.—

''(A) IN GENERAL.—To help address the subprime mortgage crisis, in fiscal year 2008, 100 percent of the amounts allocated for grants under this section shall be used to make grants to States to—

''(i) facilitate loan modification and refinance options for low- and moderate-income borrowers facing foreclosure; and

''(ii) expeditiously make available to low- and moderate-income homebuyers, properties that have been foreclosed upon.

''(B) DISTRIBUTION.—The amounts allocated to help address the subprime mortgage crisis under subparagraph (A) shall be distributed according to a formula established by the Secretary.

''(2) PERMISSIBLE DESIGNEES.—A State receiving grant amounts under this subsection may designate a State housing finance agency, housing and community development entity, tribally designated housing entity (as such term is defined in section 4 of the Native American Housing Assistance and Self-Determination Act of 1997 (25 U.S.C. 4103)), or any other qualified instrumentality of the State to receive such grant amounts.

''(3) DEVELOPMENT OF DISTRIBUTION FORMULA.—Not later than 3 months after the date of enactment of the Federal Housing Enterprise Regulatory Reform Act of 2008, the Secretary shall develop the distribution formula required under paragraph (1)(B). Such formula shall be based on the following factors:

''(A) The population of the State based on the most recent estimate of the resident population of such State as determined by the Bureau of the Census.

''(B) The 90-day delinquency rate of the State.

''(C) The ratio of foreclosures to owner-occupied households within the State.

''(4) ELIGIBLE LOAN USES.—

''(A) LOANS TO HOMEOWNERS TO PRESERVE HOMEOWNERSHIP.—

''(i) IN GENERAL.—A State or State designated entity shall use any grant amounts made available under this subsection to—

''(I) support the refinancing of loans of eligible homeowners, only if such loans have a loan-to-value ratio of not greater than 100 percent of current appraised value of the home on which such loan was taken;

''(II) reduce the outstanding loan balances of eligible homeowners, but only if the lender, servicer, investor, or other appropriate entity reduces such balance by the amount necessary to bring the combined loan value (including first and second mortgages) at or below 100 percent of the appraised value of the home; and

''(III) pay off any outstanding amounts owed by eligible homeowners for taxes and insurance.

''(ii) PROGRAM REQUIREMENTS FOR ELIGIBLE HOMEOWNERS.—

''(I) DEVELOPMENT BY STATES.—Each State or State designated entity that is a recipient of a grant amount under this subsection shall develop program requirements for eligible homeowners seeking a loan under this subparagraph.

''(II) REQUIRED CONTENT.—The program requirements required to be developed under this clause shall, at a minimum, include the following:

''(aa) The annual income of the homeowner is no greater than the annual income established by the Secretary as being of low- or moderate-income.

''(bb) That any loan under this paragraph may be provided for up to a 4-family owner-occupied residence, including 1-family units in a condominium project or a membership interest and occupancy agreement in a cooperative housing project, that is used, or is to be used, as the principal residence of the applicant seeking such grant or loan.

''(cc) The homeowner has a loan with unsustainable loan terms, as determined by a State housing finance agency or other designated State agency. For purposes of this item, the term 'unsustainable loan terms' includes such activities as the lack of escrow of taxes and insurance, the inclusion of prepayment penalties, and the lack of the ability of the homeowner to pay at the fully indexed interest rate because the debt-to-income ratio on such home loan is greater than 45 percent.

''(iii) LOAN REQUIREMENTS.—In order for a State or State designated entity to use the amounts made available under this subsection to assist eligible homeowners, a loan under this subparagraph—

''(I) shall—

''(aa) have a fixed interest rate;

''(bb) be affordable, so that the maximum debt-to-income ratio of such loan is not greater than 45 percent;

''(cc) require mandatory escrow of taxes and insurance;

''(dd) have no prepayment penalties;

''(ee) have no mandatory arbitration clauses; and

''(ff) if the loan-to-value ratio of the original mortgage loan is greater than 100 percent, require the lender to reduce such balance by the amount necessary to bring the loan value at or below 100 percent of the appraised value of the home;

''(II) shall not be due and payable unless—

''(aa) the real property securing such loan is sold, transferred, or refinanced; or

''(bb) the last surviving homeowner of such real property dies;

''(III) shall not exceed 10 percent of the principal balance; and

''(IV) may be subordinated.

''(iv) EXISTING LOAN FUNDS.—Any State or State designated entity with a previously existing fund established to make loans to assist homeowners in satisfying any amounts past due on their home loan may use funds appropriated for purposes of this subparagraph for that existing loan fund, even if the eligibility, application, program, or use requirements for that loan program differ from the eligibility, application, program, and use requirements of this subparagraph, unless such use is expressly determined by the Secretary to be inappropriate.

''(v) NO FORECLOSURE IF NOTICE OF APPLICATION FOR HOME PRESERVATION LOAN.—A mortgagee shall not initiate a foreclosure—

''(I) upon receipt of a written confirmation from the State or other State designated entity that the homeowner has applied for a home preservation loan under this subparagraph; and

''(II) for the 2-month period after receipt of such written confirmation or until the mortgagee is informed, in writing, that the homeowner is not eligible for a home preservation loan, whichever occurs first.

''(B) LOANS TO NONPROFIT DEVELOPERS FOR THE REHABILITATION AND SALE OF FORECLOSED PROPERTIES TO LOW- AND MODERATE-INCOME HOMEBUYERS.—

''(i) IN GENERAL.—A State or State designated entity may use up to 20 percent of the grant amounts made available under this subsection for homeownership preservation to provide loans to nonprofit affordable housing developers for the purposes of assisting low- and moderate-income homebuyers to purchase properties that are in the process of being foreclosed upon or have been acquired by the mortgage holder through the foreclosure process.

''(ii) PROGRAM REQUIREMENTS FOR NONPROFIT AFFORDABLE HOUSING DEVELOPERS.—

''(I) IN GENERAL.—Each State or State designated entity that is a recipient of a grant under this subsection shall, if they choose to use part of their grant award to make loans under this subparagraph, develop program requirements for nonprofit affordable housing developers for the purposes of assisting low- and moderate-income homebuyers to purchase properties that are in the process of being foreclosed upon or have been acquired by the mortgage holder through the foreclosure process.

''(II) REQUIRED CONTENT.—The program requirements developed under subclause (I) shall, at a minimum, include the following:

''(aa) That any loan under this clause may be provided for up to a 4-family owner-occupied residence, including 1-family units in a condominium project or a membership interest and occupancy agreement in a cooperative housing project, that is used, or is to be used, as the principal residence of a low- or moderate-income homebuyer.

''(bb) The annual income of the low- or moderate-income homebuyer is not greater than the annual income established by the Secretary as being of low- or moderate-income.

''(cc) The property is in foreclosure or has been acquired by the mortgage holder through the foreclosure process, the property has been appraised, and the sales price of the property does not exceed 100 percent of the appraised value of the property.

''(iii) LOAN REQUIREMENTS.—In order for a State or State designated entity to use the amounts made available under this subsection, a loan under this subparagraph—

''(I) may be used for—

''(aa) downpayment and closing costs;

''(bb) financing the difference between the sales price of a home and the mortgage for which the low- or moderate-income homebuyer qualifies; and

''(cc) repairs of a home not to exceed 10 percent of the appraised value of the home;

''(II) shall carry a zero percent interest rate;

''(III) shall not be due and payable by the low- or moderate-income homebuyer unless—

''(aa) the real property securing such loan is sold, transferred, or refinanced; or

''(bb) the last surviving homeowner of such real property dies; and

''(IV) may be subordinated.

''(iv) EXISTING LOAN FUNDS.—Any State or State designated entity with a previously existing fund established to make loans for the purposes of this subparagraph may use funds appropriated for purposes of this subparagraph for that existing loan fund, even if the eligibility, application, program, or use requirements for that loan program differ from the eligibility, application, program, and use requirements of this subparagraph, unless such use is expressly determined by the Secretary to be inappropriate.

''(c) ALLOCATION FOR AFFORDABLE HOUSING BLOCK GRANTS IN 2009 AND SUBSEQUENT YEARS.—

''(1) IN GENERAL.—Except as provided in subsection (b), during each fiscal year the Secretary of Housing and Urban Development shall distribute the amounts allocated for the affordable housing block grant program under this section to provide affordable housing as described in this subsection.

''(2) PERMISSIBLE DESIGNEES.—A State receiving grant amounts under this subsection may designate a State housing finance agency, housing and community development entity, tribally designated housing entity (as such term is defined in section 4 of the Native American Housing Assistance and Self-Determination Act of 1997 (25 U.S.C. 4103)), or any other qualified instrumentality of the State to receive such grant amounts.

''(3) DISTRIBUTION TO STATES BY NEEDS-BASED FORMULA.—

''(A) IN GENERAL.—The Secretary of Housing and Urban Development shall, by regulation, establish a formula within 12 months of the date of enactment of the Federal Housing Enterprise Regulatory Reform Act of 2008, to distribute amounts made available under this subsection to each State to provide affordable housing to extremely low- and very low-income households.

''(B) BASIS FOR FORMULA.—The formula required under subparagraph (A) shall include the following:

''(i) The ratio of the shortage of standard rental units both affordable and available to extremely low-income renter households in the State to the aggregate shortage of standard rental units both affordable and available to extremely low-income renter households in all the States.

''(ii) The ratio of the shortage of standard rental units both affordable and available to very low-income renter households in the State to the aggregate shortage of standard rental units both affordable and available to very low-income renter households in all the States.

''(iii) The ratio of extremely-low income renter households in the State living with either (I) incomplete kitchen or plumbing facilities, (II) more than 1 person per room, or (III) paying more than 50 percent of income for housing costs, to the aggregate number of extremely low-income renter households living with either (IV) incomplete kitchen or plumbing facilities, (V) more than 1 person per room, or (VI) paying more than 50 percent of income for housing costs in all the States.

''(iv) The ratio of very low-income renter households in the State paying more than 50 percent of income on rent relative to the aggregate number of very low-income renter households paying more than 50 percent of income on rent in all the States.

''(v) The resulting sum calculated from the factors described in clauses (i) through (iv) shall be multiplied by the relative cost of construction in the State. For purposes of this subclause, the term 'cost of construction'—

''(I) means the cost of construction or building rehabilitation in the State relative to the national cost of construction or building rehabilitation; and

''(II) shall be calculated such that values higher than 1.0 indicate that the State's construction costs are higher than the national average, a value of 1.0 indicates that the State's construction costs are exactly the same as the national average, and values lower than 1.0 indicate that the State's cost of construction are lower than the national average.

''(C) PRIORITY.—The formula required under subparagraph (A) shall give priority emphasis and consideration to the factor described in subparagraph (B)(i).

''(4) ALLOCATION OF GRANT AMOUNTS.—

''(A) NOTICE.—Not later than 60 days after the date that the Secretary of Housing and Urban Development determines the formula amounts described in paragraph (3), the Secretary shall caused to be published in the Federal Register a notice that such amounts shall be so available.

''(B) GRANT AMOUNT.—In each fiscal year other than fiscal year 2008, the Secretary of Housing and Urban Development shall make a block grant to each State in an amount that is equal to the formula amount determined under paragraph (3) for that State.

''(C) MINIMUM STATE ALLOCATIONS.—If the formula amount determined under paragraph (3) for a fiscal year would allocate less than $3,000,000 to any State, the allocation for such State shall be $3,000,000, and the increase shall be deducted pro rata from the allocations made to all other States.

''(5) ALLOCATION PLANS REQUIRED.—

''(A) IN GENERAL.—For each year that a State or State designated entity receives an affordable housing block grant under this subsection, the State or State designated entity shall establish an allocation plan. Such plan shall—

''(i) set forth a plan for the distribution of grant amounts received by the State or State designated entity for such year;

''(ii) be based on priority housing needs, as determined by the State or State designated entity in accordance with the regulations established under subsection (g)(2)(C);

''(iii) comply with paragraph (6); and

''(iv) include performance goals that comply with the requirements established by the Secretary pursuant to subsection (g)(2).

''(B) ESTABLISHMENT.—In establishing an allocation plan under this paragraph, a State or State designated entity shall—

''(i) notify the public of the establishment of the plan;

''(ii) provide an opportunity for public comments regarding the plan;

''(iii) consider any public comments received regarding the plan; and

''(iv) make the completed plan available to the public.

''(C) CONTENTS.—An allocation plan of a State or State designated entity under this paragraph shall set forth the requirements for eligible recipients under paragraph (8) to apply for such grant amounts, including a requirement that each such application include—

''(i) a description of the eligible activities to be conducted using such assistance; and

''(ii) a certification by the eligible recipient applying for such assistance that any housing units assisted with such assistance will comply with the requirements under this section.

''(6) SELECTION OF ACTIVITIES FUNDED USING AFFORDABLE HOUSING FUND GRANT AMOUNTS.—Grant amounts received by a State or State designated entity under this subsection may be used, or committed for use, only for activities that—

''(A) are eligible under paragraph (7) for such use;

''(B) comply with the applicable allocation plan of the State or State designated entity under paragraph (5); and

''(C) are selected for funding by the State or State designated entity in accordance with the process and criteria for such selection established pursuant to subsection (g)(2)(C).

''(7) ELIGIBLE ACTIVITIES.—Grant amounts allocated to a State or State designated entity under this subsection shall be eligible for use, or for commitment for use, only for assistance for—

''(A) the production, preservation, and rehabilitation of rental housing, including housing under the programs identified in section 1335(a)(2)(B) and for operating costs, except that such grant amounts may be used for the benefit only of extremely low- and very low-income families; and

''(B) the production, preservation, and rehabilitation of housing for homeownership, including such forms as downpayment assistance, closing cost assistance, and assistance for interest rate buy-downs, that—

''(i) is available for purchase only for use as a principal residence by families that qualify both as—

''(I) extremely low- and very low-income families at the times described in subparagraphs (A) through (C) of section 215(b)(2) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12745(b)(2)); and

''(II) first-time homebuyers, as such term is defined in section 104 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12704), except that any reference in such section to assistance under title II of such Act shall for purposes of this subsection be considered to refer to assistance from affordable housing fund grant amounts;

''(ii) has an initial purchase price that meets the requirements of section 215(b)(1) of the Cranston-Gonzalez National Affordable Housing Act;

''(iii) is subject to the same resale restrictions established under section 215(b)(3) of the Cranston-Gonzalez National Affordable Housing Act and applicable to the participating jurisdiction that is the State in which such housing is located; and

''(iv) is made available for purchase only by, or in the case of assistance under this subsection, is made available only to homebuyers who have, before purchase completed a program of counseling with respect to the responsibilities and financial management involved in homeownership that is approved by the Secretary;

''(8) ELIGIBLE RECIPIENTS.—Grant amounts allocated to a State or State designated entity under this subsection may be provided only to a recipient that is an organization, agency, or other entity (including a for-profit entity or a nonprofit entity) that—

''(A) has demonstrated experience and capacity to conduct an eligible activity under paragraph (7), as evidenced by its ability to—

''(i) own, construct or rehabilitate, manage, and operate an affordable multifamily rental housing development;

''(ii) design, construct or rehabilitate, and market affordable housing for homeownership; or

''(iii) provide forms of assistance, such as downpayments, closing costs, or interest rate buy-downs for purchasers;

''(B) demonstrates the ability and financial capacity to undertake, comply, and manage the eligible activity;

''(C) demonstrates its familiarity with the requirements of any other Federal, State, or local housing program that will be used in

conjunction with such grant amounts to ensure compliance with all applicable requirements and regulations of such programs; and

''(D) makes such assurances to the State or State designated entity as the Secretary shall, by regulation, require to ensure that the recipient will comply with the requirements of this subsection during the entire period that begins upon selection of the recipient to receive such grant amounts and ending upon the conclusion of all activities under paragraph (8) that are engaged in by the recipient and funded with such grant amounts.

''(9) LIMITATIONS ON USE.—

''(A) REQUIRED AMOUNT FOR HOMEOWNERSHIP ACTIVITIES.—Of the aggregate amount allocated to a State or State designated entity under this subsection not more than 10 percent shall be used for activities under subparagraph (B) of paragraph (7).

''(B) DEADLINE FOR COMMITMENT OR USE.—Grant amounts allocated to a State or State designated entity under this subsection shall be used or committed for use within 2 years of the date that such grant amounts are made available to the State or State designated entity. The Secretary shall recapture any such amounts not so used or committed for use and reallocate such amounts under this subsection in the first year after such recapture.

''(C) USE OF RETURNS.—The Secretary shall, by regulation, provide that any return on a loan or other investment of any grant amount used by a State or State designated entity to provide a loan under this subsection shall be treated, for purposes of availability to and use by the State or State designated entity, as a block grant amount authorized under this subsection.

''(D) PROHIBITED USES.—The Secretary shall, by regulation—

''(i) set forth prohibited uses of grant amounts allocated under this subsection, which shall include use for—

''(I) political activities;

''(II) advocacy;

''(III) lobbying, whether directly or through other parties;

''(IV) counseling services;

''(V) travel expenses; and

''(VI) preparing or providing advice on tax returns;

''(ii) provide that, except as provided in clause (iii), affordable housing block grant amounts of a State or State designated entity may not be used for administrative, outreach, or other costs of—

''(I) the State or State designated entity; or

''(II) any other recipient of such grant amounts; and

''(iii) limit the amount of any affordable housing block grant amounts for a year that may be used by the State or State designated entity for administrative costs of carrying out the program required under this subsection to a percentage of such grant amounts of the State or State designated entity for such year, which may not exceed 10 percent.

''(E) PROHIBITION OF CONSIDERATION OF USE FOR MEETING HOUSING GOALS OR DUTY TO SERVE.—In determining compliance with the housing goals under this subpart and the duty to serve underserved markets under section 1335, the Secretary may not consider any affordable housing block grant amounts used under this section for eligible activities under paragraph (7). The Secretary shall give credit toward the achievement of such housing goals and such duty to serve underserved markets to purchases by the enterprises of mortgages for housing that receives funding from such block grant amounts, but only to the extent that such purchases by the enterprises are funded other than with such grant amounts.

''(d) REDUCTION FOR FAILURE TO OBTAIN RETURN OF MISUSED FUNDS.—If in any year a State or State designated entity fails to obtain reimbursement or return of the full amount required under subsection (e)(1)(B) to be reimbursed or returned to the State or State designated entity during such year—

''(1) except as provided in paragraph (2)—

''(A) the amount of the grant for the State or State designated entity for the succeeding year, as determined pursuant to this section, shall be reduced by the amount by which such amounts required to be reimbursed or returned exceed the amount actually reimbursed or returned; and

''(B) the amount of the grant for the succeeding year for each other State or State designated entity whose grant is not reduced pursuant to subparagraph (A) shall be increased by the amount determined by applying the formula established pursuant to this section to the total amount of all reductions for all State or State designated entities for such year pursuant to subparagraph (A); or

''(2) in any case in which such failure to obtain reimbursement or return occurs during a year immediately preceding a year in which grants under this section will not be made, the State or State designated entity shall pay to the Secretary for reallocation among the other grantees an amount equal to the amount of the reduction for the entity that would otherwise apply under paragraph (1)(A).

''(e) ACCOUNTABILITY OF RECIPIENTS AND GRANTEES.—

''(1) RECIPIENTS.—

''(A) TRACKING OF FUNDS.—The Secretary shall—

''(i) require each State or State designated entity to develop and maintain a system to ensure that each recipient of assistance under this section uses such amounts in accordance with this section, the regulations issued under this section, and any requirements or conditions under which such amounts were provided; and

''(ii) establish minimum requirements for agreements, between the State or State designated entity and recipients, regarding assistance under this section, which shall include—

''(I) appropriate periodic financial and project reporting, record retention, and audit requirements for the duration of the assistance to the recipient to ensure compliance with the limitations and requirements of this section and the regulations under this section; and

''(II) any other requirements that the Secretary determines are necessary to ensure appropriate administration and compliance.

''(B) MISUSE OF FUNDS.—

''(i) REIMBURSEMENT REQUIREMENT.—If any recipient of assistance under this section is determined, in accordance with clause (ii), to have used any such amounts in a manner that is materially in violation of this section, the regulations issued under this section, or any requirements or conditions under which such amounts were provided, the State or State designated entity shall require that, within 12 months after the determination of such misuse, the recipient shall reimburse the State or State designated entity for such misused amounts and return to the State or State designated entity any such amounts that remain unused or uncommitted for use. The remedies under this clause are in addition to any other remedies that may be available under law.

''(ii) DETERMINATION.—A determination is made in accordance with this clause if the determination is made by the Secretary or made by the State or State designated entity, provided that—

''(I) the State or State designated entity provides notification of the determination to the Secretary for review, in the discretion of the Secretary, of the determination; and

''(II) the Secretary does not subsequently reverse the determination.

''(2) GRANTEES.—

''(A) REPORT.—

''(i) IN GENERAL.—The Secretary shall require each State or State designated entity receiving grant amounts in any given year under this section to submit a report, for such year, to the Secretary that—

''(I) describes the activities funded under this section during such year with such grant amounts; and

''(II) the manner in which the State or State designated entity complied during such year with any allocation plan established pursuant to subsection (c).

''(ii) PUBLIC AVAILABILITY.—The Secretary shall make such reports pursuant to this subparagraph publicly available.

''(B) MISUSE OF FUNDS.—If the Secretary determines, after reasonable notice and opportunity for hearing, that a State or State designated entity has failed to comply substantially with any provision of this section, and until the Secretary is satisfied that there is no longer any such failure to comply, the Secretary shall—

''(i) reduce the amount of assistance under this section to the State or State designated entity by an amount equal to the amount of block grant amounts which were not used in accordance with this section;

''(ii) require the State or State designated entity to repay the Secretary an amount equal to the amount of the amount block grant amounts which were not used in accordance with this section;

''(iii) limit the availability of assistance under this section to the State or State designated entity to activities or recipients not affected by such failure to comply; or

''(iv) terminate any assistance under this section to the State or State designated entity.

''(f) DEFINITIONS.—For purposes of this section, the following definitions shall apply:

''(1) EXTREMELY LOW-INCOME RENTER HOUSEHOLD.—The term 'extremely low-income renter household' means a household whose income is not in excess of 30 percent of the area median income, with adjustments for smaller and larger families, as determined by the Secretary.

''(2) RECIPIENT.—The term 'recipient' means an individual or entity that receives assistance from a State or State designated entity from amounts made available to the State or State designated entity under this section.

''(3) SHORTAGE OF STANDARD RENTAL UNITS BOTH AFFORDABLE AND AVAILABLE TO EXTREMELY LOW-INCOME RENTER HOUSEHOLDS.—

''(A) IN GENERAL.—The term 'shortage of standard rental units both affordable and available to extremely low-income renter households' means for any State or other geographical area the gap between—

''(i) the number of units with complete plumbing and kitchen facilities with a rent that is 30 percent or less of 30 percent of the adjusted area median income as determined by the Secretary that are occupied by extremely low-income renter households or are vacant for rent; and

''(ii) the number of extremely low-income renter households.

''(B) RULE OF CONSTRUCTION.—If the number of units described in subparagraph (A)(i) exceeds the number of extremely low-income households as described in subparagraph (A)(ii), there is no shortage.

''(4) SHORTAGE OF STANDARD RENTAL UNITS BOTH AFFORDABLE AND AVAILABLE TO VERY LOW-INCOME RENTER HOUSEHOLDS.—

''(A) IN GENERAL.—The term 'shortage of standard rental units both affordable and available to very low-income renter households' means for any State or other geographical area the gap between—

''(i) the number of units with complete plumbing and kitchen facilities with a rent that is 30 percent or less of 50 percent of the adjusted area median income as determined by the Secretary that are occupied by very low-income renter households or are vacant for rent; and

''(ii) the number of very low-income renter households.

''(B) RULE OF CONSTRUCTION.—If the number of units described in subparagraph (A)(i) exceeds the number of very low-income households as described in subparagraph (A)(ii), there is no shortage.

''(5) VERY LOW-INCOME FAMILY.—The term 'very low-income family' has the meaning given such term in section 1303, except that such term includes any family that resides in a rural area that has an income that does not exceed the poverty line (as such term is defined in section 673(2) of the Omnibus Budget Reconciliation Act of 1981 (42 U.S.C. 9902(2)), including any revision required by such section) applicable to a family of the size involved.

''(6) VERY LOW-INCOME RENTER HOUSEHOLDS.—The term 'very low-income renter households' means a household whose income is in excess of 30 percent but not greater than 50 percent of the area median income, with adjustments for smaller and larger families, as determined by the Secretary.

''(g) REGULATIONS.—

''(1) IN GENERAL.—The Secretary of Housing and Urban Development, shall issue regulations to carry out this section.

''(2) REQUIRED CONTENTS.—The regulations issued under this subsection shall include—

''(A) a requirement that the Secretary ensure that the use of block grant amounts under this section by States or State designated entities is audited not less than annually to ensure compliance with this section;

''(B) authority for the Secretary to audit, provide for an audit, or otherwise verify a State or State designated entity's activities to ensure compliance with this section;

''(C) requirements for a process for application to, and selection by, each State or State designated entity for activities meeting the State or State designated entity's priority housing needs to be funded with block grant amounts under this section, which shall provide for priority in funding to be based upon—

''(i) geographic diversity;

''(ii) ability to obligate amounts and undertake activities so funded in a timely manner;

''(iii) in the case of rental housing projects under subsection (c)(7)(A), the extent to which rents for units in the project funded are affordable, especially for extremely low-income families;

''(iv) in the case of rental housing projects under subsection (c)(7)(A), the extent of the duration for which such rents will remain affordable;

''(v) the extent to which the application makes use of other funding sources; and

''(vi) the merits of an applicant's proposed eligible activity;

''(D) requirements to ensure that block grant amounts provided to a State or State designated entity under this section that are used for rental housing under subsection (c)(7)(A) are used only for the benefit of extremely low- and very low-income families; and

''(E) requirements and standards for establishment, by a State or State designated entity, for use of block grant amounts in 2009 and subsequent years of performance goals, benchmarks, and timetables for the production, preservation, and rehabilitation of affordable rental and homeownership housing with such grant amounts.

''(h) AFFORDABLE HOUSING TRUST FUND.—If, after the date of enactment of the Federal Housing Enterprise Regulatory Reform Act of 2008, in any year, there is enacted any provision of Federal law establishing an affordable housing trust fund other than under this title for use only for grants to provide affordable rental housing and affordable homeownership opportunities, and the subsequent year is a year referred to in subsection (c), the Secretary shall in such subsequent year and any remaining years referred to in subsection (c) transfer to such affordable housing trust fund the aggregate amount allocated pursuant to subsection (c) in such year. Notwithstanding any other provision of law, assistance provided using amounts transferred to such affordable housing trust fund pursuant to this subsection may not be used for any of the activities specified in clauses (i) through (vi) of subsection (c)(9)(D).

''(i) FUNDING ACCOUNTABILITY AND TRANSPARENCY.—Any grant under this section to a grantee by a State or State designated entity, any assistance provided to a recipient by a State or State designated entity, and any grant, award, or other assistance from an affordable housing trust fund referred to in subsection (h) shall be considered a Federal award for purposes of the Federal Funding Accountability and Transparency Act of 2006 (31 U.S.C. 6101 note). Upon the request of the Secretary of the Office of Management and Budget, the Secretary shall obtain and provide such information regarding any such grants, assistance, and awards as the Secretary of the Office of Management and Budget considers necessary to comply with the requirements of such Act, as applicable, pursuant to the preceding sentence.

SA 4491. Mr. GRASSLEY submitted an amendment intended to be proposed to amendment SA 4387 submitted by Mr. DODD (for himself and Mr. SHELBY) to the bill H.R. 3221, moving the United States toward greater energy independence and security, developing innovative new technologies, reducing carbon emissions, creating green jobs, protecting consumers, increasing clean renewable energy production, and modernizing our energy infrastructure, and to amend the Internal Revenue Code of 1986 to provide tax incentives for the production of renewable energy and energy conservation; which was ordered to lie on the table; as follows:

Beginning on page 63, strike line 20 and all that follows through line 7 on page 64 and insert the following:

''(ii) TAXABLE YEARS ENDING DURING 2008 AND 2009.—An eligible taxpayer (within the meaning of section 168(k)(4)) may elect to apply this paragraph to any net operating loss for any taxable year ending during 2008 or 2009—

''(I) by substituting '4' for '2' in subparagraph (A)(i),

''(II) by substituting '3' for '2' in subparagraph (E)(ii), and

''(III) without regard to subparagraph (F).''.

SA 4492. Mr. REID (for Mrs. CLINTON) submitted an amendment intended to be proposed by Mr. REID to the bill H.R. 3221, moving the United States toward greater energy independence and security, developing innovative new technologies, reducing carbon emissions, creating green jobs, protecting consumers, increasing clean renewable energy production, and modernizing our energy infrastructure, and to amend the Internal Revenue Code of 1986 to provide tax incentives for the production of renewable energy and energy conservation; which was ordered to lie on the table; as follows:

At the end, add the following:

TITLE VIII—MORTGAGE ENHANCEMENT AND MODIFICATION ACT

SEC. 801. SHORT TITLE.

This title may be cited as the ''Mortgage Enhancement and Modification Act of 2008''.

SEC. 802. SAFE HARBOR FOR QUALIFIED LOAN MODIFICATIONS OR WORKOUT PLANS FOR CERTAIN RESIDENTIAL MORTGAGE LOANS.

(a) STANDARD FOR LOAN MODIFICATIONS OR WORKOUT PLANS.—Absent specific contractual provisions to the contrary—

(1) the duty to maximize or not negatively affect, the recovery of total proceeds from pooled residential mortgage loans is owed by a servicer of such pooled loans to the securitization vehicle for the benefit of all investors and holders of beneficial interests in the pooled loans, in the aggregate, and not to any individual party or group of parties;

(2) a servicer of pooled residential mortgage loans shall be deemed to be acting on behalf of the securitization vehicle in the best interest of all investors and holders of beneficial interests in the pooled loans, in the aggregate if—

(A) for a loan that is in payment default under the loan agreement or for which payment default is imminent or reasonably foreseeable, the loan servicer makes reasonable and documented efforts, which shall be made available to the investors and holders of beneficial interests in the pooled loans upon request, to implement a modification or workout plan; or

(B) the efforts under subparagraph (A) are unsuccessful or such plan would be infeasible, engages in other loss mitigation, including accepting a short payment or partial discharge of principal, or agreeing to a short sale of the property, to the extent that the servicer reasonably believes the modification or workout plan or other mitigation actions will maximize the net present value to be realized on the loans over that which would be realized through foreclosure under the present terms of the contract; and

(3) a servicer shall be deemed to be acting on behalf of the securitization vehicle in the best interest of all investors and holders of beneficial interests in the pooled loans, in the aggregate, if the servicer makes efforts—

(A) to proactively contact borrowers that are reasonably considered to be approaching a calendar date in which a predetermined or contractually established rate of interest on the principal of the loan shall—

(i) increase or fluctuate in accordance with a designated market indicator or indicators; or

(ii) increase or fluctuate within a predetermined range; and

(B) to determine—

(i) the ability of the borrower to make payments following a reset of interest rates using common and appropriate metric standards such as debt to income ratios;

(ii) whether the borrower is in danger of default or disclosure; and

(iii) whether a loan modification or other mitigation effort is appropriate.

(b) SAFE HARBOR.—Absent specific contractual provisions to the contrary, a servicer of a residential mortgage loan that acts in a

manner consistent with the provisions set forth in subsection (a), shall not be liable for entering into a qualified loan modification, or other loss mitigation effort described in subsection (a) to—

(1) any person, based on that person's ownership of a residential mortgage loan or any interest in a pool of residential mortgage loans or in securities that distribute payments out of the principal, interest, and other payments in loans on the pool;

(2) any person who is obligated to make payments determined in reference to any loan or any interest referred to in paragraph (1);

(3) any person that insures any loan or any interest referred to in paragraph (1) under any law or regulation of the United States or any law or regulation of any State or political subdivision of any State; or

(4) any other person or institution that may have a financial or commercial relationship and association with the persons associated in paragraphs (1) through (3).

(c) RULE OF CONSTRUCTION.—No provision of this section shall be construed as limiting the ability of a servicer to enter into loan modifications or workout plans other than qualified loan modification or workout plans.

(d) DEFINITIONS.—As used in this section, the following definitions shall apply:

(1) QUALIFIED LOAN MODIFICATION OR WORKOUT PLAN.—The term ''qualified loan modification or workout plan'' means a modification or plan that—

(A) is scheduled to remain in place until the borrower sells or refinances the property, or for at least 5 years from the date of adoption of the plan, whichever is sooner;

(B) does not provide for a repayment schedule that results in negative amortization at any time;

(C) does not require the borrower to pay additional points and fees;

(D) materially improves the ability of the borrower to—

(i) prevent foreclosure; and

(ii) resume a reasonable repayment schedule based on, but not limited to, debt to income ratio; and

(E) would reasonably reduce the likelihood of default of foreclosure during the life of the modification or plan;

(F) may waive any prepayment penalties that reasonably inhibited a loan holder from fulfilling his ability to pay down the principal or maintain regular payments as defined by the terms of the loan; and

(G) includes full and accurate disclosure to the borrower of the terms of the modification or workout plan, provided that such disclosures are executed in easy to understand terms that demonstrate how the borrower will benefit from the new terms in such modification or workout plan as compared with the terms and conditions of the previous loan of the borrower.

(2) RESIDENTIAL MORTGAGE LOAN.—The term ''residential mortgage loan'' means a loan that is secured by a lien on an owner-occupied residential dwelling.

(3) SECURITIZATION VEHICLE.—The term ''securitization vehicle'' means a trust, corporation, partnership, limited liability entity, special purpose entity, or other structure that—

(A) is the issuer, or is created by the issuer, of mortgage pass-through certificates, participation certificates, mortgage-backed securities, or other similar securities backed by a pool of assets that includes residential mortgage loans; and

(B) holds such loans.

(e) LIMITATIONS ON SAFE HARBOR.—Except for the provisions of section 2 that limit liability for efforts to pursue qualified loan modifications or workout plans, the provisions of this section shall not be construed to affect or limit any other liability, duty, or other fiduciary obligation of the servicer to the investors and holders of beneficial interests in the pooled loans to a securitization vehicle, as prescribed by any other specific contractual provision agreed upon, or any other liability, duty, or other fiduciary obligation set forth under any—

(1) law or regulation of the United States;

(2) law or regulation of any State or political subdivision of any State; or

(3) established and approved standards for best practices of any industry or trade group.

(f) EFFECTIVE PERIOD.—This section shall apply only with respect to qualified loan modification or workout plans initiated prior to January 1, 2012.

SA 4493. Mr. BUNNING (for himself and Ms. STABENOW) submitted an amendment intended to be proposed to amendment SA 4387 submitted by Mr. DODD (for himself and Mr. SHELBY) to the bill H.R. 3221, moving the United States toward greater energy independence and security, developing innovative new technologies, reducing carbon emissions, creating green jobs, protecting consumers, increasing clean renewable energy production, and modernizing our energy infrastructure, and to amend the Internal Revenue Code of 1986 to provide tax incentives for the production of renewable energy and energy conservation; which was ordered to lie on the table; as follows:

On page 82, between lines 7 and 8, insert the following:

TITLE VII—CURRENCY MANIPULATION

SEC. ___01. SHORT TITLE.

This title may be cited as the ''China Currency Manipulation Act of 2008''.

SEC. ___02. FINDINGS.

Congress makes the following findings:

(1) The People's Republic of China has a material global current account surplus.

(2) The People's Republic of China has, since the beginning of 2000, accumulated a current account surplus with the United States of nearly $1,200,000,000,000, more than twice the size of the cumulative current account surplus of any other United States trading partner during the same period.

(3) The People's Republic of China has engaged in protracted large-scale intervention in currency markets, thereby subsidizing Chinese-made products and erecting a formidable nontariff barrier to trade for United States exports to the People's Republic of China, in contravention of the spirit and intent of the General Agreement on Tariffs and Trade and the Articles of Agreement of the International Monetary Fund.

SEC. ___03. ACTION TO ACHIEVE FAIR CURRENCY.

(a) DETERMINATION.—Notwithstanding any other provision of law, the Secretary of the Treasury shall—

(1) make an affirmative determination that the People's Republic of China is manipulating the rate of exchange between its currency and the United States dollar within the meaning of section 3004(b) of the Exchange Rates and International Economic Policies Coordination Act of 1988 (22 U.S.C. 5304(b)); and

(2) take the action described in subsections (b), (c), and (d) of this section.

(b) ACTION.—

(1) IN GENERAL.—The Secretary of the Treasury shall, not later than 30 days after the date of the enactment of this Act, establish a plan of action to remedy currency manipulation by the People's Republic of China, and submit a report regarding that plan, to the Committee on Banking, Housing, and Urban Affairs and the Committee on Finance of the Senate and the Committee on Financial Services and the Committee on Ways and Means of the House of Representatives.

(2) BENCHMARKS.—The report described in paragraph (1) shall include specific benchmarks and timeframes for correcting the currency manipulation.

(c) INITIAL NEGOTIATIONS.—The Secretary shall initiate, on an expedited basis, bilateral negotiations with the People's Republic of China for the purpose of ensuring that the country regularly and promptly adjusts the rate of exchange between its currency and the United States dollar to permit effective balance of payment adjustments and to eliminate the unfair competitive advantage.

(d) COORDINATION WITH THE INTERNATIONAL MONETARY FUND.—The Secretary of the Treasury shall, not later than 30 days after the date of the enactment of this Act, instruct the Executive Director to the International Monetary Fund to use the voice and vote of the United States, including requesting consultations under Article IV of the Articles of Agreement of the International Monetary Fund, for the purpose of ensuring the People's Republic of China regularly and promptly adjusts the rate of exchange between its currency and the United States dollar to permit effective balance of payments adjustments and to eliminate the unfair competitive advantage in trade.

NOTICE OF HEARING

SUBCOMMITTEE ON WATER AND POWER

Mr. BINGAMAN. Mr. President, I would like to announce for the information of the Senate and the public that a hearing has been scheduled before the Subcommittee on Water and Power of the Committee on Energy and Natural Resources. The hearing will be held on Thursday, April 17, 2007, at 2 p.m., in room SD366 of the Dirksen Senate Office Building in Washington, DC.

The purpose of the hearing is to receive testimony on the increasing number of issues associated with aging water resource infrastructure that is operated and maintained, or owned, by the United States Bureau of Reclamation.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send it to the Committee on Energy and Natural Resources, United States Senate, Washington, DC 20510–6150, or by email to Gina_Weinstock@energy.senate.gov.

For further information, please contact Michael Connor at (202) 224–5479 or Gina Weinstock at (202) 224–5684.

PRIVILEGES OF THE FLOOR

Mrs. FEINSTEIN. Mr. President, I ask on behalf of Senator CASEY of Pennsylvania unanimous consent that Mr. James Hedrick of his staff be granted the privilege of the floor for the remainder of the Senate's consideration of H.R. 3221.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR STAR PRINT—SENATE REPORT 110–277

Mr. REID. Mr. President, I ask unanimous consent that Senate Report 110–277 be star printed with the changes at the desk.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDERS FOR TUESDAY, APRIL 8, 2008

Mr. REID. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand adjourned until 10 a.m. tomorrow, Tuesday, April 8; that following the prayer and pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for use later in the day, and the Senate proceed to a period of morning business for up to 60 minutes, with Senators permitted to speak therein for up to 10 minutes each, with the time equally divided and controlled between the two leaders or their designees, with the majority controlling the first half and the Republicans controlling the final half; that following morning business, the Senate resume consideration of H.R. 3221, the legislative vehicle for the housing legislation, and that the filing deadline for second-degree amendments be 12 noon tomorrow. I further ask unanimous consent that the Senate stand in recess from 12:30 until 2:15 p.m. to allow for the weekly caucus luncheons.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. REID. I would say that on the amendments filed—I think there are about 9 or 10 pending amendments—all but one are not germane. The one that is germane, I believe, is Senator SNOWE's amendment. It is my understanding that Senator MURRAY may have had one today that appears to be germane. We want to dispose of this, if cloture is invoked, which we feel comfortable it will be; those two should have the opportunity for a vote.

So this is a good piece of legislation. Does it solve all of the housing problems? Of course not. But it is a step in the right direction. It is imperfect. I have to say as an indication of how good it is, we are not happy on this side, and they, the Republicans, are not happy on that side. But we are working together, and this legislation I can defend anyplace. It is a good piece of legislation. Do I think it would be better if we have the bankruptcy provision? Of course I do. But it is not there.

This is a very strong package. I look forward to passing it. I think it sets the proper tone for the many things we have to accomplish in the Senate this work period. We have the patent bill. That is very difficult. We have the highway technical corrections, the supplemental appropriations bill. The only way we can get that done is by working together. We have a number of other issues we need to work on. So I am happy we are able to work together at this point on this very important housing legislation.

There will be no votes in the morning. We tried to work things out so that we would have some votes on some of the germane amendments, but in trying to do that, people who have nongermane amendments would not allow us to do that.

The cloture vote will be at 2:15 as we have announced.

ADJOURNMENT UNTIL 10 A.M. TOMORROW

Mr. REID. If there is no further business from my distinguished friend, I ask unanimous consent that the Senate stand adjourned under the previous order.

There being no objection, the Senate, at 6:25 p.m., adjourned until Tuesday, April 8, 2008, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate:

DEPARTMENT OF STATE

PETER WILLIAM BODDE, OF MARYLAND, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF MALAWI.

IN THE NAVY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTIONS 5133 AND 5138:

To be rear admiral

REAR ADM. (LH) CAROL I. TURNER

IN THE AIR FORCE

THE FOLLOWING NAMED INDIVIDUAL FOR APPOINTMENT IN THE GRADE INDICATED IN THE REGULAR AIR FORCE UNDER TITLE 10, U.S.C., SECTION 531(A):

To be lieutenant colonel

HOWARD P. BLOUNT III

THE FOLLOWING NAMED INDIVIDUAL FOR APPOINTMENT IN THE GRADE INDICATED IN THE REGULAR AIR FORCE UNDER TITLE 10, U.S.C., SECTION 531(A):

To be major

ERRILL C. AVECILLA

THE FOLLOWING NAMED INDIVIDUAL FOR APPOINTMENT IN THE GRADE INDICATED IN THE REGULAR AIR FORCE UNDER TITLE 10, U.S.C., SECTION 531(A):

To be major

MARK Y. LIU

THE FOLLOWING NAMED INDIVIDUALS FOR APPOINTMENT TO THE GRADES INDICATED IN THE REGULAR AIR FORCE UNDER TITLE 10, U.S.C., SECTION 531(A):

To be lieutenant colonel

BRYCE G. WHISLER

To be major

TIMOTHY M. FRENCH

THE FOLLOWING NAMED INDIVIDUALS FOR APPOINTMENT IN THE GRADE INDICATED IN THE REGULAR AIR FORCE UNDER TITLE 10, U.S.C., SECTION 531(A):

To be major

PHIET T. BUI
RENE F. MELENDEZ
MICHAEL J. MORRIS

IN THE ARMY

THE FOLLOWING NAMED ARMY NATIONAL GUARD OF THE UNITED STATES OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTIONS 12203 AND 12211:

To be colonel

JOHN C. KOLB